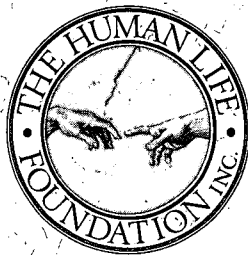


# the HUMAN LIFE REVIEW



WINTER 1976

*Featured in this issue:*

Prof. Francis Canavan on ..... Law and Society's  
Conscience

Suzanne Gordon on ..... A Not-So-Simple Operation

Richard Selzer, M.D. on ..... What the Man Saw

Prof. John F. Matthews on ..... Reflections on  
Abortion

Prof. Ian A. Hunter on ..... The Canadian Debate

Harold O. J. Brown on ..... The French Dilemma

Prof. Paul Ramsey on ..... Medical Ethics

M. J. Sobran on ..... Men, Women and  
Miss Brownmiller

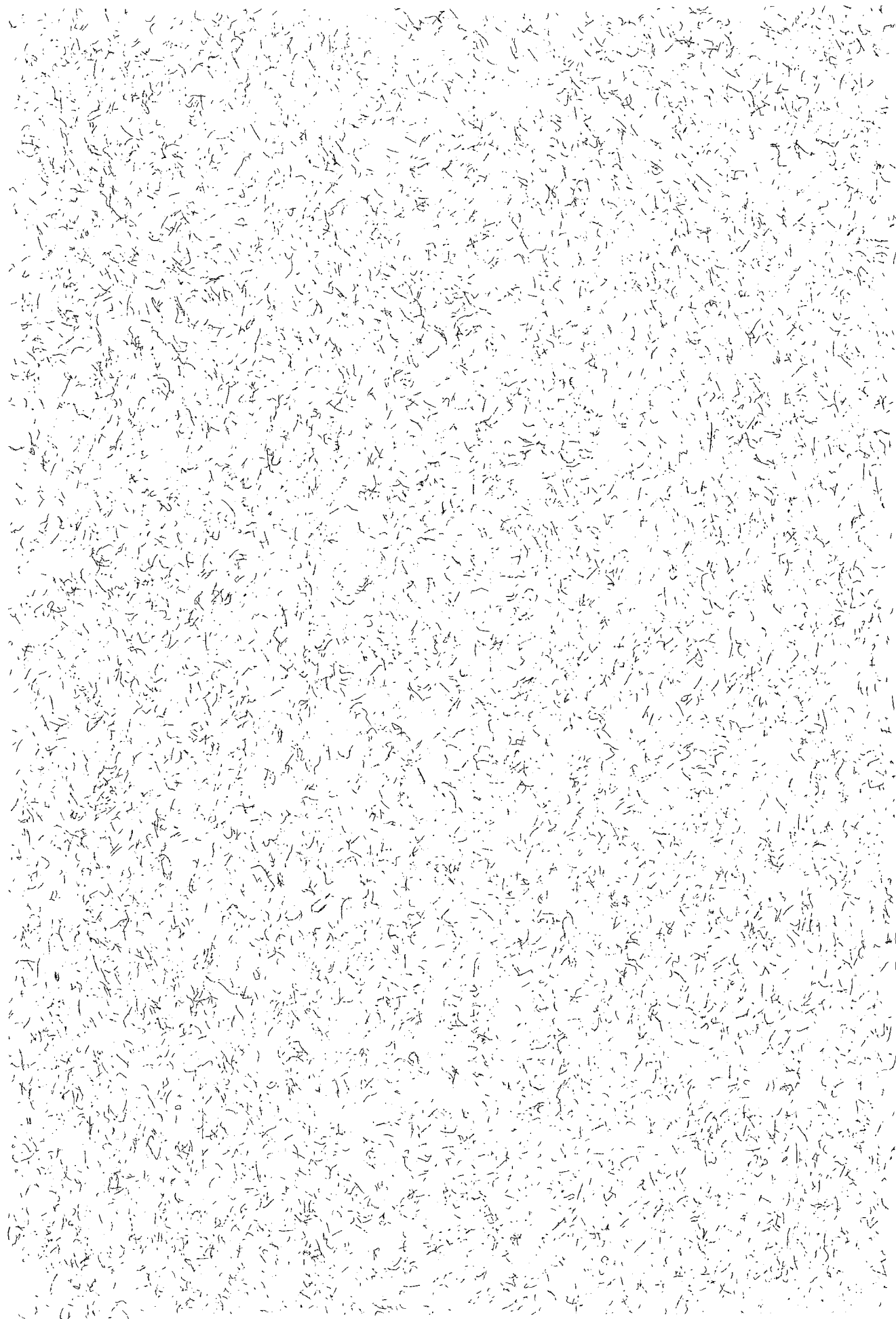
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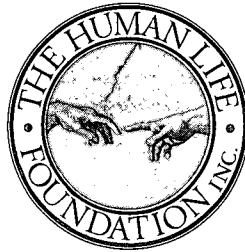
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# THE HUMAN LIFE REVIEW



WINTER 1976

Introduction .....	i
Law and Society's Conscience .....	<i>Francis Canavan</i> 1
Abortion: Thoughts on a Not-So-Simple Operation .....	<i>Suzanne Gordon</i> 9
What I Saw at the Abortion .....	<i>Richard Selzer, M.D.</i> 16
Some Reflections on Abortion .....	<i>John F. Matthews</i> 21
The Abortion Debate North of the Border .....	<i>Ian A. Hunter</i> 60
Abortion on Demand in France? .....	<i>Harold O.J. Brown</i> 64
Medical Ethics Skewed by the Abortion Issue .....	<i>Paul Ramsey</i> 74
Playing with Genes .....	<i>The Economist</i> 86
Men, Women and Miss Brownmiller .....	<i>M.J. Sobran</i> 89
Appendix .....	99
Letters .....	102

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. . . about THE HUMAN LIFE REVIEW

*With this issue we begin our second year of publication. We are as surprised as anybody: we began a year ago not knowing whether there would be any interest in a publication such as this one, or support sufficient to sustain it. Happily, we have found both (albeit a great deal more of the former than the latter).*

*We therefore proceed with considerable optimism. Provided we can continue for another year, we have every reason to expect that the Review will become as "permanent" as any journal can be (given the high cost of printing and mailing anything nowadays).*

*A tangible sign of this optimism is the following: the Foundation will now accept subscriptions for The Human Life Review at \$12 per year (\$10 to supporters of the Foundation's other programs). Thus, if you yourself subscribe now, you will be due all remaining 1976 issues, plus the first 1977 issue, in return for your \$12 payment (sorry, we cannot as yet accept charge orders: please address all subscriptions to: The Human Life Review, Room 540, 150 East 35 St., New York, N.Y. 10016). Naturally, we hope that you will subscribe instantly. Also, previous issues are still available, as indicated on the inside back cover of this issue.*

*We continue to welcome all comments and suggestions from our readers (although we cannot guarantee to publish, or respond to, all correspondence received). As previously, we herewith supply (for the convenience of those readers interested in getting the books for themselves) the necessary information: Paul Ramsey's "The Ethics of Fetal Research" is published by Yale University Press (New Haven, Conn., \$7.95); Susan Brownmiller's "Against Our Will: Men, Women and Rape" is published by Simon and Schuster (New York City, \$10.95).*

## INTRODUCTION

“IT IS AN OLD half-truth that you cannot legislate morality. The other and more significant half of the truth is that a society’s laws inevitably reflect its morals and its religion. As a society’s religious and moral beliefs change, then, so will its laws.”

So Prof. Francis Canavan begins this issue, in which we again focus on the abortion issue—although from so many points of view, and with so many other subjects drawn into the discussion (law, medical ethics, genetics—to name just a few) as to bolster the contention, held by an increasing number of thoughtful people, that abortion may well be the central issue of our time.

Prof. Canavan may be asking, then, exactly the right question about what the U.S. Supreme Court did *re* abortion three years ago. Was the Court merely reflecting the *actual* state of our nation’s religious and moral beliefs, or did the Court act *in advance* of such changes in traditional values as would be necessary to permit the current legal status (or non-status) of the unborn to endure? In any case, we believe that Prof. Canavan’s article makes an impressive (and very readable) contribution to the continuing discussion, in these pages, of the legal and moral problems raised by the whole abortion/ethanasia issue. It also, we feel, provides an excellent preface for all that follows.

The Court said, in effect, that abortion was primarily the concern of a woman and her doctor. By chance, two recent articles—one by a woman who herself had an abortion, another by a young doctor who witnessed one (his first)—appeared almost at the same time in two very different publications: *Esquire* magazine, and New York City’s *Village Voice*. We reprint both of them here, not only because they seem to bear so directly on the problems abortion causes even for those involved, but also because they seem, taken together, to demonstrate another important point: far from receding from public debate after the Court “settled” it, the abortion question is becoming more and more frequently a subject of interest and controversy among those who rarely thought of it *before* the Court acted.

In our Fall, 1975 issue, we tried to demonstrate how true this is of the academic world, where a surprising number of new books on the abortion/ethanasia controversy are appearing, published by some of

## INTRODUCTION

the most scholarly publishing houses. We publish in this issue what amounts to a small book by Prof. John F. Matthews of Brandeis ("Some Reflections on Abortion") which ranges far and wide over the whole current social scene, stopping off for discussions of the medical profession, drugs, teen-age sex, "women's lib," and much more along the way—all, somehow, related by Prof. Matthews to the abortion issue. Although it is by far our longest article to date, we think it will be one of the most widely read: it's just plain interesting. We hope to have more from Prof. Matthews in the near future.

There follow two reports about the state of the abortion issue abroad: from Canada, and about France. (In previous issues we carried similar articles about or from West Germany, Poland, Great Britain and Norway; we expect to have another from Czechoslovakia soon; taken together, they offer convincing evidence of the worldwide nature of the problem.)

Prof. Ian Hunter's description of the Canadian situation seems especially interesting. While he makes the point that the *Morgentaler* case there has had an impact similar to the *Roe* and *Doe* cases here, he shows that, in fact, the subject matter is almost *entirely* different. But the prejudices are familiar. He writes: "The proabortionist media attacked the [Court's] decision . . . constantly referring to the majority judgment of 'Mr. Justice Pigeon—a *French-Canadian Roman Catholic*.' When I received the written judgment, I was intrigued to discover that [it] was in fact written by Mr. Justice Dickson—a *Manitoba Protestant*." He also points out that, because Canada lacks anything comparable to our own Bill of Rights, "the abortion issue must ultimately be resolved in the legislative not the judicial form." (Many Americans, of course, wish this were true in the U.S.: they believe that abortion laws—like laws on marriage, divorce, and similar problems—should remain the concern of the several states, and not of the Federal courts or government.)

The French dilemma is, as Dr. Brown shows, also quite different from the American. There, the abortion debate *began* in the political arena (with all major candidates taking positions on the proposed "reform" of existing law). More, because of the deep-seated fear (since Napoleonic days) of a declining birthrate, many advocates of "liberalized" abortion argued that the new law would in fact "reduce rather than augment" the total number of abortions! Finally, the French law has a five-year time limit, at which point its demographic effect will be reevaluated by the parliament (with the courts effectively kept *out* of it).

An interesting additional difference is the attitude of the medical

#### THE HUMAN LIFE REVIEW

professions. While in the U.S. doctors have offered little ethical or professional opposition to performing abortions (as Prof. Matthews points out), Dr. Brown reports that in France "the great majority of physicians (73 per cent) are hostile to abortion." In Canada too, there would seem to be considerable organized medical opposition to performing abortions. (Mr. Malcolm Muggeridge recently sent us a copy of a speech by a well-known Canadian medical man, Dr. Harley S. Smyth, bearing on this point; we include it in this issue as *Appendix A.*)

We next return to the subject of fetal experimentation (dealt with in a three-part symposium in our Fall, 1975 issue). A new book, *The Ethics of Fetal Research*, by a highly-respected authority, Prof. Paul Ramsey of Princeton, provides a comprehensive introduction to the general subject. One chapter outlines how and why the abortion issue intrudes so sharply into this already-vexed problem. We have reprinted it here in its entirety. Prof. Ramsey handles this admittedly complicated subject so clearly that even the casual reader should have no difficulty in understanding it (a rare achievement, in our experience).

Lest anyone think that *all* research on human life is primarily concerned with the abortion question, we add a fascinating essay that appeared a few months ago in the weekly magazine *The Economist*, published in London but circulated worldwide (many consider it the finest periodical printed in English). The subject is genetic research, and while we don't claim to fully understand all of it ourselves, it is, as we say, *fascinating*. Also (and however abstruse), it would seem to be an issue of growing concern to scientists everywhere (e.g., the article "Politics and Genes" in the Jan. 12 *Newsweek*), and we hope to have more on this subject in future issues.

Finally, we bring you (as we have in every issue to date) M.J. Sobran. A number of readers have written to ask why his articles always appear at the end (or very nearly so) of each issue. His admirers (a rapidly-growing, occasionally vociferous band) accuse us of saving the best for last. Be that as it may, Mr. Sobran has certainly saved some of his sharpest remarks for his present essay (*don't overlook the ending!*).

At first glance, the subject matter would seem to be untypical of his usual concerns, and unlikely stuff for our Review. Not so, as you will find as you read on (and on). The book under discussion is *Against Our Will: Men, Women and Rape*, by Susan Brownmiller. The *New York Times* has chosen it as "a book of the year," one "destined to take its place beside De Beauvoir's *The Second Sex*,

## INTRODUCTION

Friedan's *The Feminine Mystique* and Kate Millet's *Sexual Politics*." (Sobran's review, in our opinion, takes its place alongside George Gilder's *Sexual Suicide*.) *Time* magazine picked its author as one of its twelve Women of the Year. It was a Book-of-the-Month Club full selection. Therefore, it must be a very important book. Sobran treats it accordingly.

This issue seems to be our most wide-ranging so far. The subjects, and the treatment thereof, vary considerably from article to article (and, indeed, within the same article, e.g., Prof. Matthews again). We believe that such varied fare makes good reading, and hope you agree. We will attempt to bring you more of the same in our next issue, coming soon.

J. P. MCFADDEN  
*Editor*



# Law and Society's Conscience

Francis Canavan

IT IS AN OLD half-truth that you cannot legislate morality. The other and more significant half of the truth is that a society's laws inevitably reflect its morals and its religion. As a society's religious and moral beliefs change, then, so will its laws.

This thought powerfully impressed the mind of a noted Victorian writer, Sir James Fitzjames Stephen. He gave prophetic expression to it in his *Liberty, Equality, Fraternity*, which was published in 1873. In this book Stephen foretold, a century ago, the legal-moral issues of our day, because he saw their causes in the changes of religious belief taking place in his day.

Stephen wrote the book as a critique of John Stuart Mill's famous essay *On Liberty*. But R. J. White, who edited a new printing of *Liberty, Equality, Fraternity* for the Cambridge University Press in 1967, says that the object of his criticism was

something more comprehensive. . . . It was nothing less than the secular religion of democracy, the "substitute religion" which for more than half a century had been making headway among liberal intellectuals as the Religion of Humanity.<sup>1</sup>

White also says of Stephen that "in the course of a life of sixty-five years he had moved a long way from the Evangelical faith into which he was born."<sup>2</sup> But attenuated though Stephen's religious faith had become, he saw clearly the practical implications of the dechristianization of Western culture, implications whose full import is only dawning on most of us today.

Stephen regarded belief in a personal God and in a future life as the religious doctrine of greatest practical importance for society. He wrote:

"This is the vital question of all. Upon this hang all religion, all morals,

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Francis Canavan, S.J. is Professor of Political Science at Fordham University, and has written widely on constitutional law and political philosophy, including *The Political Reason of Edmund Burke* (1960). This article first appeared in the British review *Law & Justice* (Michaelmas, 1974) and is reprinted here with permission.

FRANCIS CANAVAN

all politics, all legislation—everything which interests men as men. Is there or not a God and a future state? Is this world all?”<sup>3</sup>

Should we ever become convinced that human life ends absolutely in death, Stephen felt,

“ . . . there will be an end of what is commonly called religion, and it will be necessary to reconstruct morals from end to end.”<sup>4</sup>

He explained the reason why in these terms:

“If these beliefs are mere dreams, life is a very much poorer and pettier thing; men are beings of much less importance; trouble, danger, and physical pain are much greater evils, and the prudence of virtue is much more questionable than has hitherto been supposed to be the case. If men follow the advice so often pressed upon them, to cease to think of these subjects otherwise than as insoluble riddles, all the existing conceptions of morality will have to be changed, all social tendencies will be weakened. Merely personal inclinations will be greatly strengthened.”<sup>5</sup>

General acceptance of a purely secular view of life, he says,

“ . . . would have an equally powerful and direct influence both on law and morals. The value which is set upon human life, especially upon the lives of the sick, the wretched, and superfluous children would at once appear to be exaggerated. Lawyers would have occasion to reconsider the law of murder, and especially the law of infanticide.”<sup>6</sup>

This brings us to where we are now—a century after Stephen wrote. He himself said:

“The questions which I have in mind will not arise at all until the great change in religious belief, of which we now witness the beginning, has gone much further and assumed a much more decided character than can be expected, say for a generation to come.”<sup>7</sup>

The process has taken longer than a generation, and is of course even yet not complete. But society in the West, and certainly in English-speaking countries, is now sufficiently dechristianized and secularized that Stephen’s predictions are visibly coming true.

We are living through what the press calls “the sexual revolution,” which is a working-out of the implications of separating sex from procreation. Hence contraception, sterilization, divorce, pre- and extra-marital sexual relations and homosexuality have become disputed moral and legal questions. At a deeper level, we are living through a religious revolution, the deconversion of Western culture from Christianity. As Stephen foresaw, it has led to a question of

## THE HUMAN LIFE REVIEW

“the value which is set upon human life, especially upon the lives of the sick, the wretched, and superfluous children.”

Abortion is already a hotly argued issue in law and morals, and euthanasia, infanticide and massive (and more or less coercive) birth-control programmes soon will be.

Our present situation, then, is one in which the moral foundation of an important part of our laws has been and is being steadily eroded. A practical problem is thereby posed for those who still hold the traditional morality that underlies the laws and who believe that the existing, or until recently existing, structure of law ought to be maintained. To what extent can we, or even should we, try to keep laws on the statute books when their necessary basis in public opinion is crumbling?

Let us quote one more passage from Fitzjames Stephen's book to illustrate the problem.

“Legislation ought in all cases to be graduated to the existing level of morals in the time and country in which it is employed. You cannot punish anything which public opinion, as expressed in the common practice of society, does not strenuously and unequivocally condemn. To try to do so is a sure way to produce gross hypocrisy and furious reaction. To be able to punish, a moral majority must be overwhelming. Law cannot be better than the nation in which it exists, though it may and can protect an acknowledged moral standard, and may gradually be increased in strictness as the standard rises. We punish, with the utmost severity, practices which in Greece and Rome went almost uncensured”.<sup>8</sup>

In this passage Stephen is warning against undue haste in making the laws more strict before a strong moral consensus has been formed to supply the necessary foundation for the change. Our situation today, however, is the opposite—as he foresaw that it would be. Moral standards which were once commonly acknowledged are now under attack. There are progressively more radical demands that the laws which enforce those standards, far from being increased in strictness, should be relaxed or repealed. The moral consensus that formerly existed is waning. Must we then simply abandon the laws that were founded upon it? What attitude should we take toward the demands for change in these laws?

Let us first consider certain attitudes that we need not take, even though we are frequently urged to adopt them. One is that it is a violation of a fundamental human right to prevent a person from doing what his conscience judges permissible or even obligatory. To say this, however, is to beg the question, since what is in issue is

whether the performance of a particular kind of action, e.g., euthanasia, is a basic human right. Respect for the dignity of the human person does not require that the individual's conscience be accepted as the sole or final arbiter of the issue. Human beings, in their corporate capacity as an organized society, also have consciences. Societies may indeed be wrong in their moral judgments, but so may individuals, and the social conscience is not, antecedently, and by definition, inferior to the individual conscience.

A similar argument, cast in more legalistic terms, begins with the "right of privacy" which the U.S. Supreme Court discovered in 1965<sup>9</sup> and the Supreme Court of the Irish Republic accepted in 1973<sup>10</sup> as the ground for a right of free access to contraceptive information and materials. Privacy, as used in this argument, is an ambiguous term. There is, by general agreement, conduct which should not be made a crime because its successful prosecution is dependent upon the ability of the police to intrude into the home and even into the bedroom to an intolerable extent. But what the right of privacy protects in such cases is *privacy*. *The action performed in private does not thereby become a positive right whose exercise the law must facilitate.*

Thus, for example, the U.S. Supreme Court has held that the mere private possession of obscene films may not be made a criminal offense.<sup>11</sup> But in subsequent cases it has denied that this right to private possession founds a right to acquire obscene materials in the open market.<sup>12</sup> Evidently, all that the Court intended to protect was the privacy of a man's home—not an affirmative right to enjoy pornographic films.

If we take the right of privacy to mean a positive right to acquire contraceptive materials, to have an abortion or to arrange for the termination of one's life, it must refer to something more than the privacy of one's home. It now denotes a right of private decision and means that certain actions have been transferred from public control to the area of what an American political scientist has called "autonomous decisions". As he says, however,

"To be sure, once we have agreed that a particular matter belongs within the domain of Autonomous Decisions, the possibility of conflict between minority and majority is eliminated with respect to *that matter*. But to determine what remains in or out of the domain of Autonomous Decisions requires a collective decision; decisions of this kind are often a source of very profound conflict; . . .<sup>13</sup>

Nor is the conflict resolved by mere appeals to the "right of privacy,"

#### THE HUMAN LIFE REVIEW

as if all intelligent and well-intentioned people were already agreed on what the right includes!

Another premise that we need not accept is that no person and no group has a right to impose its beliefs on others. This is only another way of saying that society has no right to have a moral standard, but it is an assumption which most of those who make it do not consistently hold. Civilization depends upon the civilized imposing their beliefs and standards on the barbarians within, as well as without, the gates. Without hesitation, modern societies prohibit human sacrifice, ritual prostitution, incestuous marriages, and polygamy. They are not deterred by the fact that these practices enjoyed the sanction of religion in various societies in times past, nor would they be deterred by a showing that certain groups sincerely believe in them today. They need not be prevented from forbidding other and more popular practices merely because people think they have a right to them.

But surely the teachings of churches should not be imposed by law on those who do not believe in them? Does it not depend on what the churches teach? Some religious beliefs clearly ought not to be enforced by law, e.g., that one should be baptized or that one should not make a journey on the Sabbath. But the reason for this is that the objects of such beliefs are outside the limited scope of the state's power—at least as that power is understood in a regime of religious liberty. But if an object is within the scope of state power, as is the protection of human life on any reading of the function of the state, then, a view of the value of human life cannot be ruled out of consideration merely because it is taught by a church. To say that it should be excluded from public discussion is a species of secularist bigotry: religious believers, as citizens, may enter the public forum and take part in the debate on the laws; *but they must check their consciences at the door and talk as if they were secularists while they are within.*

Finally, it is a dubious argument, albeit a popular one, that because the rich can board a jet plane and leave the jurisdiction to get a divorce or have an abortion, the poor must be allowed to enjoy these privileges at home. The rich, to put it bluntly, will always find it easier to get away with murder than will the poor. But the question is: should murder be a crime? And the answer is quite independent of the question: is it fair that the punishment for it should fall with greater certainty on the the poor than on the rich? The same distinction applies to other actions. It can be argued that they should not be made crimes, but not because the poor find it harder than the rich to escape punishment for them.

FRANCIS CANAVAN

All of these arguments against legal enforcement of moral standards spring from the tendency of a liberal society to reduce questions of law and morals to the principles of liberty and equality. A liberal society can hardly understand a moral-legal issue except as a conflict of rights, either as a clash between individual claims of right, or as one between the rights of the individual and those of the state. Being liberal, society believes in the equal right of every individual to follow his own preferences insofar as this is compatible with the rights of other individuals and with social existence. But the liberal society finds it increasingly hard to evaluate preferences by any commonly held standards. In the post-Christian liberal society, the idea of man as an individual, whose rights are rooted in his individuality, is replacing the idea of man as a person endowed by God with a common human nature that furnishes the foundation for common norms of right and obligation. Such a society is reduced to reconciling its bias in favour of individual freedom as best it can with its utilitarian assessment of secular social needs.

As our societies come more and more to be of this kind, the adherents of the traditional morality are forced into a defense of the traditional legal code. If they understand their own tradition well, they will realize that the defense need not be utterly intransigent. Crime is not necessarily coextensive with sin. Law must tolerate much that morality rightly condemns. The degree of toleration may vary with the nature of what is tolerated: making divorce easy certainly damages human lives, especially those of children; but it is not so direct and drastic an attack on human life as is the legalization of abortion.

An intelligent defense of traditional norms will also rest upon an understanding that law ultimately cannot enforce a standard higher than public opinion will support, and that therefore some relaxation of laws may become a practical necessity. But, with all this, people may still defend the moral-legal tradition and make every effort to maintain or restore the consensus in its favour. Indeed, as the attack on the tradition becomes more radical and more vigorous, they will have to defend it, if it is to survive.

This, it seems to me, is the real significance of resistance to demands for liberalization of laws for the regulation of sexual conduct and the protection of human life. The object on which both the demands and the resistance to them are ultimately focussed is not the statute book but the conscience of society. If society in a particular nation settles definitely into a secular, post-Christian view of life, the laws will inevitably change. But, whilst the conscience of society is

#### THE HUMAN LIFE REVIEW

still in a state of transition, the demands for liberalization should be contested, if only to pinpoint the moral issues, and make public opinion fully aware of the implications of the legal changes to which it is urged to consent.

The same consideration applies, for some period of time at least, even after a law has been liberalized. Abortion, virtually on demand, has been legalized, in Great Britain (by The Abortion Act 1967) and in the United States by *fiat* of the Supreme Court<sup>14</sup> (and, of course, in other countries, too). Efforts to reverse or modify these changes in the law of abortion are not inappropriate. They are an effective way—possibly the only effective way—to stir the public to reflect on the departure from its previously acknowledged moral values which the changes represent, and to ask itself seriously whether the departure is one of which its conscience truly approves.

The public should not be allowed to entertain the illusion that liberalization of the laws will of course result in a net increase of human freedom. The aim of the liberalizers is ultimately not freedom to follow their own beliefs, but power to translate them into public policy. The dominant values of any society are reflected in its institutions and its laws. Not only the threat of legal punishment, but the thrust of public policy, and what John Stuart Mill called “the moral coercion of public opinion”, exert a pressure on everyone to conform to certain norms of conduct. The modern welfare state makes this pressure all-pervasive, even when it is not in any formal sense coercive. If, for example, the whole weight of a national health service were put behind what Senator Mary Robinson of the Irish Republic calls “a progressive family planning programme,” the Family Planning Association would become a kind of established church. Its policies would then be pressed upon the population at large, and dissenters from progressive views of family planning would find themselves at best tolerated.

Societies can enjoy a high degree of freedom, as Great Britain notably has done. But there is no such thing as a simply neutral society. A society's laws and institutions always embody some view of man; a welfare state necessarily reflects some conception of human welfare. That conception depends finally on public opinion—on the consensus or conscience of society. The laws that regulate the people's morals and promote their welfare are of necessity a reflection of the morals of the people. In our contemporary controversies over law and morals, therefore, the real battle is not for society's laws but for its soul.

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FRANCIS CANAVAN

NOTES

1. P. 1.
2. *ibid.*, p. 17.
3. *ibid.*, 101.
4. *ibid.*, 39.
5. *ibid.*, 98.
6. *ibid.*, 48.
7. *ibid.*, 97.
8. *ibid.*, 159.
9. *Griswold v. Connecticut*, 381 U.S. 479.
10. *McGee v. Attorney General*; 1975 Irish LT Vol. CIX Nos. 5652 and 5653.
11. *Stanley v. Georgia*, 394 U.S. 557 (1969).
12. *U.S. v. 37 Photographs*, 91 S.Ct. 1400 (1971); *U.S. v. Reidel*, 91 S.Ct. 1410 (1971).
13. Robert Dahl, *After the Revolution?* (New Haven and London: Yale University Press, 1970), 25.
14. *Roe v. Wade*, 35 L Ed 2d 147 (1973). Comments on this case in *The Jurist* Spring 1973 were examined by J. M. B. Crawford in *Law And Justice* No. 42 Hilary 1974.



## Abortion: Thoughts on a Not-So-Simple Operation

*Suzanne Gordon*

THE OFFICE my husband and I walk into is on the third floor of a respectable medical building in Berkeley. The waiting room is done in pastels—pink, lime green, and bright yellow plaid wallpaper, comfortable easy chairs, magazines from *Ms.* to *McCall's*, and Muzak. But not Mantovani, top 40, the Rolling Stones. This is Berkeley, after all.

No doctor's notes are required, no psychiatric examination. There is no need for a woman to act as if she will have a nervous breakdown if she is forced to have the baby. You simply call and say you have an "unwanted pregnancy," and that's it. "Will today at four be all right?" the secretary asks. The only requirement is that you present \$75 (that's \$75, not \$750) before you see the doctor.

The women in the waiting room sit leafing through magazines with their boyfriends at their sides. (We are supposed to call any female over 16 a "woman" these days, but these particular females seem more like girls to me). They are all so young that I feel embarrassed. I have come, it seems, to Berkeley's teenybopper abortionist and, from all appearances, he has a very lucrative practice.

And quite an efficient operation it is. We wait only a few minutes after giving our name and money—cash only, no checks are accepted—before someone calls my name. I look hesitantly at my husband and walk through the door leading to the examining rooms.

A small, stout woman in a denim pants suit invites me into her office. Like the outside waiting room, it is also modishly decorated. She gives me mimeographed sheets to read which tell me what will happen before, during, and after. Diagrams clarify her explanations. We also discuss future birth control. What was I using before this happened, she inquires. The IUD. Ah! she mutters knowingly. I am not the first, apparently, nor the last who will get pregnant with the

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Suzanne Gordon, a freelance writer, is the author of "Rock Mesa: The Angel of Death" (John Day, 1973), and of the forthcoming "Lonely in America," to be published by Simon and Schuster in February. She has contributed to a variety of publications, from *The Washington Post* to *Ms.* magazine. This article first appeared in the Nov. 24, 1975 issue of the New York City weekly *The Village Voice*. (Reprinted by permission of *The Village Voice*, © The Village Voice, Inc., 1975.)

SUZANNE GORDON

Copper 7. Do I want to use it again, she asks! Will that mean another visit here in six months? Very likely. So I ask for the pill, and then we discuss which pill.

After this she explains the abortion, which is referred to throughout as The Procedure. I will first see the doctor and he will examine me. Then he will perform The Procedure, which will take only a few minutes. Then I will rest and go home. If I like, she tells me, my husband can be present during The Procedure. This idea surprises me. Apparently these days a man can accompany you at the loss of an unwanted baby as well as at the birth of a desired one. I ask if my husband will be able to see what's happening. Because if he can then he would be no help at all. But there's no danger there, for they have worked things out so that one man can discharge the bottom half while another comforts the top half. His chair would be near my head so he could not possibly see what goes on under the gynecologist's sheet.

I am also given two packets of pills. One is for pain, the other for excessive bleeding, should, God forbid, that occur. Then the counselor again reassures me that there is nothing to worry about. I am only a few weeks pregnant so a little cervical dilation will be necessary. There will be little pain. Besides, there's no danger at all. It's such a simple operation. Why it's even used as a standard means of birth control in underdeveloped nations. Some women have up to 12 abortions. Of course, she adds, that's not recommended practice here.

I am told to empty my bladder, and lie down and wait for the doctor. He is a soft-spoken man, not at all the gruff butcher who is the stereotypical abortionist. And it is while he is poking around under his white sheet that I decide against having my husband present during the abortion. Sheet or no sheet, there is something obscene about having him sit and watch another man probe my genitals. I so stipulate, and then The Procedure begins.

It's all very simple, really—a matter of minutes. There is, however, quite a lot of pain. They told me I would feel nothing, what with the length of pregnancy, four shots of novocaine, and a shot of Valium. But during that very long five minutes, I try to imagine upon what they base their standards of pain. If this is a little pain, what is a lot of pain?

Finally, the doctor pulls out his uterine vacuum cleaner, and I feel as though I've just performed a backward somersault. I'm dizzy and faint and feel a cold sweat stream over my body. Suddenly, what had been a relatively calm scene begins to get quite lively. A blood pressure machine is strapped to my arm. The doctor and nurse begin

#### THE HUMAN LIFE REVIEW

whispering. What's happening, I would like to ask, but I'm too weak to even talk. It seems I've had some sort of reaction to the novocaine. My blood pressure dropped 40 points and I've lost all color. I'd become as white as the gynecologist's ubiquitous white sheet, they told me.

But even this problem is efficiently remedied. A moment of rest, a shot, and everything is again under control. My husband comes to stay with me, but upon seeing me lying on the table, unable to do more than whisper faintly, he is forced to sit down. Some help he would have been! In a few more minutes the doctor comes in and tells me everything will be fine. I should make an appointment for next month, for the standard four-week checkup (which is included in the \$75 fee). He also gives me an extra packet of birth control pills so that further mishaps can be avoided.

I go home and rest. A friend makes me vegetable soup. My husband sits by my side. And it is all over. Two days later I am up and about. Two weeks later my breasts have gone back to their normal size. It was all about as traumatic as having a tooth pulled. And yet . . .

I was pregnant for exactly one day. That is, my body was pregnant for three weeks, but what I consider "me," my consciousness, knew what was happening for only eight hours before I had the abortion.

I had skipped one period and had felt nauseated for about a week. But periods have been missed before, I thought, and when I recounted my symptoms to friends they informed me that a stomach flu was "going around." Besides, my stomach was upset all day and night. Morning sickness, on the other hand, is only supposed to come in the morning. No doubt about it, I had the flu. I recognized that there was a chance that all this added up to pregnancy, but I was sure that chance was small. So when a doctor friend suggested I come to his office just to check things out, I wasn't worried. My friend the doctor was sure it was nothing. My husband was sure it was nothing. The first two-minute test taken, however, showed that there was definitely something—a baby.

That all this had happened despite my IUD, and with such alacrity, made it seem unreal. When my friend asked if I would like him to arrange for an abortion that afternoon, I immediately accepted his offer of help. I didn't even call my husband to tell him I was pregnant, nor did I ask his consent before making an appointment with the local abortionist. There was no question in my mind as to what we would do. We could not have a baby. I am a very liberated woman. My decision to have the abortion was made without the slightest trace of emotional conflict. I had no qualms that what I was about to do would

SUZANNE GORDON

make me feel any less a woman. Besides, I have a career. My husband has a career. We have our life-style, our spontaneity, our dog to protect. To have a child at this time would be insane. So insane that it wasn't even within the realm of possibility. So outside the realm of possibility that I had, and still have, a hard time imagining that I could become pregnant. A woman like me does not become pregnant without willing it. Or so I thought.

When I agreed to have the abortion I didn't feel any guilt at the thought that I was destroying a child my husband and I had created. We weren't responsible for this child. The IUD was responsible. There was, therefore, nothing to kill; just a mistake to erase. The most significant and unfortunate thing I could think of when I was informed of my condition was, in fact, that I would have to find some new kind of birth control. The IUD had always seemed to be such a singularly sound means of contraception. Unlike the pill, whatever evils it wreaked while performing its duties were localized and relatively easy to find. One didn't have to worry about forgetting to take it each night, or about the disruption caused by having to excuse oneself to slip in the diaphragm (ah! the memories I have of that slippery plastic disk covered with white guck popping out of my hands and flying halfway across the bathroom while I was hurrying to return to a waiting lover). Clearly the worst thing about this whole business was the fact that I would have to go back to the pill and thus risk the worry that somehow, somewhere in my body it would plant an evil seed which would creep out and get me in 10 or 20 years. But still, there is convenience, so the pill it would be.

When I went home to tell my husband that I was both pregnant and scheduled to have an abortion that afternoon, he was merely surprised. He had no worries about any possible negative consequences resulting from the decision. The only negative thing was that I was pregnant. The only positive action possible was abortion. The completely modern couple, we know our own minds, we are in touch with our feelings. And, as everyone is so fond of saying these days, once you are in touch with your feelings, or lack of them, there's no problem. No trauma for us. And yet . . .

Several days after the abortion I began to have strange, disquieting dreams. Nightmares unlike any I've ever had. Dreams about children and people with children. In one of them a friend and I were caught in the middle of a race riot. Trying to flee the city, we chose a route that we thought farthest from the center of looting and burning. On our way out of town, just as we thought we were out of danger, huge metal barriers fell across the highway. Like prison doors they blocked

our path so that there was no escape either in front or in back of us. The rioters came, and in a meeting they decided that we had to have a child in order to be freed. But I had no child. I had just done away with all possibility of freedom. Suddenly I realized that we were safe. My friend's son was with us, and we would be spared because of him.

The next night there was another dream. I discovered that my husband was having an affair with the woman next door. In the dream she had a new name which rhymed with "Pap smear." She also had a little son. He had abandoned me for the woman with the child.

Finally, several days after the abortion, I provoked a quarrel with my husband. We rarely fight, but that day we argued heatedly about money. I complained that we never had enough money. Why didn't he earn more? Why did we always have to struggle? Why, I seemed to be saying, couldn't he be a proper man? I had to take birth control pills, worry about vaginitis, see my whole body change its shape. If he couldn't share any of this with me, at least he could suffer in some other way.

Like those cold pills advertised on television, the ones with the thousands of tiny time capsules which release medicine over a period of hours, the effects of the abortion were being released into my system day after day. And yet, none of this was supposed to happen. I was supposed to be in complete control. What I was discovering, however, was that my womanhood, my unconscious feelings about children and reproduction, were sneaking out of my subconscious and propelling themselves against me. The emotions I was feeling weren't complicated by the difficulties women faced 10 or 20 years ago in merely getting an abortion. Compared to those problems my abortion was untraumatic. It was not, on the other hand, as completely trauma-free as I had expected. The legalization of abortion hadn't totally solved the dilemmas involved. What it had done, at least in my case, was allow me to delay the recognition of those problems.

That I had been so completely cut off from my feelings—until they revealed themselves to me in dreams and arguments—isn't surprising. Nor can this delayed reaction be explained solely in terms of my own psychology, my own resistance mechanisms. Rather, I believe it's the result of the changes wrought by the '60s and '70s—changes that affect men's and women's relationship to their own sexuality. For if womanhood has traditionally been defined through one's relationship to reproduction, then I and many others like me have become odd women. We have become strange androgynous creatures—half woman, half . . . choose what you will, man, human, person, soul.

SUZANNE GORDON

Although our mothers and fathers bred into us the fear of sex and pregnancy, as well as the tyranny of our reproductive systems, I, for one, have hardly ever experienced what I was told would dominate my life.

By the time I was old enough to be interested in doing something about my sexual desires, there was the pill. No one knew then what disasters it could cause, and so it became salvation. Once its evils were uncovered, there was the IUD, tubal ligation, vasectomy, sperm banks. Of course the latter are not taken quite so lightly as the former, but they are nonetheless alternatives. Besides, new inventions are forthcoming, and who knows what goodies will be available? Sex, as we all know, became easy. It brought pleasure without fear, and all the other clichés touted by the media. What it also brought, and what rarely makes the headlines, is a very bizarre relationship to our bodies, to the mechanisms relentlessly working inside us.

Intellectually I've always recognized the potential of womanhood. I've always known that I am a person who can produce babies. If I forgot to take a pill, if the diaphragm slipped, if the IUD didn't work. But I've always been careful, and it never occurred to me that either I or modern technology could fail. Sure there are percentage risks. But percentages refer to other people, not to oneself. I had never had to face what I carry inside of me. I had never had to deal emotionally with what nature has made me.

One could argue that being pregnant would instantly emotionalize such intellectual recognitions. But it all happens so fast, so easily, so untraumatically these days, that one need never experience while experiencing. The doctor's office is an assembly line, but one that is humanized by sympathetic counselors, nurses who comfortingly hold one's hand, the privilege of having one's man or friend by one's side. As Marcuse says, if there is an enemy here, he or she is almost impossible to distinguish.

I mean to make no judgments, nor am I suggesting that we were better off without pills, and IUDs and legal abortions. Clearly the way it is is far superior to the way it was. Women now have a choice. But for those of us who make the choice I made, there are questions that remain unanswered, perhaps because it is too soon to know. They are not earth-shattering questions, nor do they necessarily disturb the flow of one's days, the pleasure of one's sexuality. But they are nevertheless there. Small, nagging questions that come up when one thinks about one's gender, when one hears the words "male" and "female" bandied about today as though they are adjectives that describe very clear-cut characteristics.

#### THE HUMAN LIFE REVIEW

What I have discovered is that the path which I began to follow in the late '60s, when I attended my first consciousness-raising group, has, in certain respects, led me almost full circle. When my sisters and I began to embrace our womanhood, we felt certain of the meaning of both that word and our actions. Sisterhood was powerful, what was "male" was generally considered bad, what was "female" was always good. Even our own weaknesses were signs of strength in a culture that eschewed emotion. Being a woman became almost a career and one could see the steps ahead of one on the ladder to success.

Now, almost 10 years later, things don't seem quite so simple. For once one feels liberated, not politically, but sexually, femininity ceases to be a trap. And, as it frees itself, its identifying characteristics cloud. Perhaps that opacity is a positive thing. Perhaps it means that we are all on our way to becoming human beings rather than the traditional opposites men and women. But still, there are monthly cycles, pregnancies that go as quickly as they come, sexual tension and confusion. The problem is that I'm no longer certain about what all that implies. Once we abolish socialized sex differences, a woman can be defined only by what is inside her pelvic area. And if we take away the meaning of that machinery, then what is left? How is a woman different from a man? What do the terms "male" and "female" mean?

In short—what have I become?

# What I Saw at the Abortion

The doctor observed, the man saw.

*Richard Selzer*

**I** AM A SURGEON. Particularities of sick flesh is everyday news. Escaping blood, all the outpourings of disease—phlegm, pus, vomitus, even those occult meaty tumors that terrify—I see as blood, disease, phlegm, and so on. I touch them to destroy them. But I do not make symbols of them.

What I am saying is that I have seen and I am used to seeing. We are talking about a man who has a trade, who has practiced it long enough to see no news in any of it. Picture this man, then. A professional. In his forties. Three children. Lives in a university town—so, necessarily, well—enlightened? Enough, anyhow. Successful in his work, yes. No overriding religious posture. Nothing special, then, your routine fellow, trying to do his work and doing it well enough. Picture him, this professional, a sort of scientist, if you please, in possession of the standard admirable opinions, positions, convictions, and so on—on this and that matter—on *abortion*, for example.

All right.

Now listen.

It is the western wing of the fourth floor of a great university hospital. I am present because I asked to be present. I wanted to see what I had never seen. An abortion.

The patient is Jamaican. She lies on the table in that state of notable submissiveness I have always seen in patients. Now and then she smiles at one of the nurses as though acknowledging a secret.

A nurse draws down the sheet, lays bare the abdomen. The belly mounds gently in the twenty-fourth week of pregnancy. The chief surgeon paints it with a sponge soaked in red antiseptic. He does this three times, each time a fresh sponge. He covers the area with a sterile sheet, an aperture in its center. He is a kindly man who teaches as he works, who pauses to reassure the woman.

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THE HUMAN LIFE REVIEW

He begins.

A little pinprick, he says to the woman.

He inserts the point of a tiny needle at the midline of the lower portion of her abdomen, on the downslope. He infiltrates local anesthetic into the skin, where it forms a small white bubble.

The woman grimaces.

That is all you will feel, the doctor says. Except for a little pressure. But no more pain.

She smiles again. She seems to relax. She settles comfortably on the table. The worst is over.

The doctor selects a three-and-one-half-inch needle bearing a central stylet. He places the point at the site of the previous injection. He aims it straight up and down, perpendicular. Next he takes hold of her abdomen with his left hand, palming the womb, steadying it. He thrusts with his right hand. The needle sinks into the abdominal wall.

Oh, says the woman quietly.

But I guess it is not pain that she feels. It is more a recognition that the deed is being done.

Another thrust and he has speared the uterus.

We are in, he says.

He has felt the muscular wall of the organ gripping the shaft of his needle. A further slight pressure on the needle advances it a bit more. He takes his left hand from the woman's abdomen. He retracts the filament of the stylet from the barrel of the needle. A small geyser of pale yellow fluid erupts.

We are in the right place, says the doctor. Are you feeling any pain? he says.

She smiles, shakes her head. She gazes at the ceiling.

In the room we are six: two physicians, two nurses, the patient, and me.

The participants are busy, very attentive. I am not at all busy—but I am no less attentive. I want to see.

*I see something!*

It is unexpected, utterly unexpected, like a disturbance in the earth, a tumultuous jarring. I see something other than what I expected here. I see a movement—a small one. But I have seen it.

And then I see it again. And now I see that it is the hub of the needle in the woman's belly that has jerked. First to one side. Then to the other side. Once more it wobbles, is *tugged*, like a fishing line nibbled by a sunfish.

Again! And I *know*!

RICHARD SELZER

It is the *fetus* that worries thus. It is the fetus struggling against the needle. Struggling? How can that be? I think: *that cannot be*. I think: the fetus feels no pain, cannot feel fear, has no *motivation*. It is merely reflex.

I point to the needle.

It is a reflex, says the doctor.

By the end of the fifth month, the fetus weighs about one pound, is about twelve inches long. Hair is on the head. There are eyebrows, eyelashes. Pale pink nipples show on the chest. Nails are present, at the fingertips, at the toes.

At the beginning of the sixth month, the fetus can cry, can suck, can make a fist. He kicks, he punches. The mother can feel this, can *see* this. His eyelids, until now closed, can open. He may look up, down, sideways. His grip is very strong. He could support his weight by holding with one hand.

A reflex, the doctor says.

I hear him. But I saw something. I saw *something* in that mass of cells *understand* that it must bob and butt. And I see it again! I have an impulse to shove to the table—it is just a step—seize that needle, pull it out.

We are not six, I think. I think we are *seven*.

Something strangles *there*. An effort, its effort, binds me to it.

I do not shove to the table. I take no little step. It would be . . . well, madness. Everyone here wants the needle where it is. Six do. No, *five* do.

I close my eyes. I see the inside of the uterus. It is bathed in ruby gloom. I see the creature curled upon itself. Its knees are flexed. Its head is bent upon its chest. It is in fluid and gently rocks to the rhythm of the distant heartbeat.

It resembles . . . a sleeping infant.

Its place is entered by something. It is sudden. A point coming. A needle!

A spike of *daylight* pierces the chamber. Now the light is extinguished. The needle comes closer in the pool. The point grazes the thigh, and I stir. Perhaps I wake from dozing. The light is there again. I twist and straighten. My arms and legs *push*. My hand finds the shaft—grabs! I *grab*. I bend the needle this way and that. The point probes, touches on my belly. My mouth opens. Could I cry out? All is a commotion and a churning. There is a presence in the pool. An

THE HUMAN LIFE REVIEW

activity! The pool colors, reddens, darkens.

I open my eyes to see the doctor feeding a small plastic tube through the barrel of the needle into the uterus. Drops of pink fluid overrun the rim and spill onto the sheet. He withdraws the needle from around the plastic tubing. Now only the little tube protrudes from the woman's body. A nurse hands the physician a syringe loaded with a colorless liquid. He attaches it to the end of the tubing and injects it.

Prostaglandin, he says.

Ah, well, prostaglandin—a substance found normally in the body. When given in concentrated dosage, it throws the uterus into vigorous contraction. In eight to twelve hours, the woman will expel the fetus.

The doctor detaches the syringe but does not remove the tubing.

In case we must do it over, he says.

He takes away the sheet. He places gauze pads over the tubing. Over all this he applies adhesive tape.

I know. We cannot feed the great numbers. There is no more room. I know, I know. It is woman's right to refuse the risk, to decline the pain of childbirth. And an unwanted child is a very great burden. An unwanted child is a burden to himself. I know.

And yet . . . there is the flick of that needle. I *saw* it. I saw . . . I *felt*—in that room, a pace away, life prodded, life fending off. I saw life avulsed—swept by flood, blackening—then *out*.

There, says the doctor. It's all over. It wasn't too bad, was it? he says to the woman.

She smiles. It is all over. Oh, yes.

And who would care to imagine that from a moist and dark commencement six months before there would ripen the cluster and globule, the sprout and pouch of man?

And who would care to imagine that trapped within the laked pearl and a dowry of yolk would lie the earliest stuff of dream and memory?

It is a persona carried here as well as person, I think. I think it is a signed piece, engraved with a hieroglyph of human genes.

I did not think this until I saw. The flick. The fending off.

We leave the room, the three of us, the doctors.

"Routine procedure," the chief surgeon says.

"All right," I say.

"Scrub nurse says first time you've seen one, Dick. First look at a

RICHARD SELZER

purge," the surgeon says.

"That's right," I say. "First look."

"Oh, well," he says, "I guess you've seen everything else."

"Pretty much," I say.

"I'm not prying, Doctor," he says, "but was there something on your mind? I'd be delighted to field any questions. . . ."

"No," I say. "No, thanks, Just simple curiosity." (The doctor explains that the law does not permit abortion beyond the twenty-fourth week. That is when the fetus may be viable, he says. We stand together for a moment, and he tells of an abortion in which the fetus *cried* after it was passed. What did you do? I ask him. There was nothing *to* do but let it live, he says. It did very well, he says. A case of mistaken dates.)

"Okay," he says, and we all shake hands, scrub, change, and go to our calls.

I know, I know. The thing is normally done at sixteen weeks. Well, I've since seen it performed at that stage, too. And seen . . . the flick. But I also know that in the sovereign state of my residence it is hospital policy to warrant the procedure at twenty-four weeks. And that in the great state that is adjacent, policy is enlarged to twenty-eight weeks.

Does this sound like argument? I hope not. I am not trying to argue. I am only saying I've *seen*. The flick. Whatever else may be said in abortion's defense, the vision of that other defense will not vanish from my eyes.

What I saw I saw as that: a *defense*, a motion *from*, an effort *away*. And it has happened that you cannot reason with me now. For what can language do against the truth of what I saw?

## Some Reflections on Abortion

*John F. Matthews*

ONE OF THE charms of America, nowadays, is the way public controversy takes place on a level of “principle” so far removed from reality as to make everything seem merely a matter of empty abstraction. People choose up sides mainly on the basis of ideology, more concerned with slogans than with the facts about which they are supposedly arguing.

Thus, in the great and continuing debate about abortion, disputants quiver with indignation over “the right of a woman to control the use of her own body”—or, contrarily, over the presumed “right of the unborn”—without ever stopping to consider just what it is that is actually being discussed.

It is not Catholicism. It is not Protestantism. It is not even “liberalism.” It is simply the killing of “unborn infants” by women who do not wish to have their own pleasures interfered with by the inconvenience and discomfort of bearing and raising children.

Contemporary American society has apparently managed to produce quite a few such women. As of the date of the first anniversary of “legalized abortion,” it had become the largest single cause of infant mortality in the United States. Whether one accepts the “Crusade For Life” figure of 1,500,000, or the smaller pro-abortion estimate of one million, the number of fatalities involved is not only greater even than that which resulted over the last ten years from the customary American carnage on the highways—it is greater than the total number of deaths to U.S. citizens in all the wars of our nation’s history.

And by mid-1975, it had risen again by about another million. Viewed from any perspective whatever, this is a very big and very bloody business. It is also something rather new in the world.

Not that babies have not been killed in the past; they have been, and often. They have been killed by neglect, by ignorance, by brutal

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misuse, and even, sometimes, on purpose. But seldom, until now, with so little shame or sorrow (in societies which considered themselves civilized); and *never* before with such a voluble and successful demand for public support and approval—as if there were a peculiarly feminine merit in it that in some way deserved celebration.

In China and India, for instance, famine has sometimes led to the deliberate abandonment and starvation of new-born infants—especially if they happened to be girls (19th Century Americans used to think this custom incredibly brutal; clear proof, it was felt, of eastern cultural inferiority).

But even the most critical “missionary types” never pretended that such infanticide was done casually or without regret. Oriental mothers wept at the loss of their children, as indeed they still do. The grim deeds done to make the scanty stores go around were done with sorrow; not just to save bother, but to save lives.

In other ancient societies (and indeed, to this very day in certain primitive areas) children have sometimes been sacrificed to the gods in bloody rituals which were supposed to make the crops grow or the rains come or to bring success in war. It was just such a murderous superstition that led the historic Carthaginians, for instance, to burn babies alive by the hundreds to propitiate their dreadful, brazen Moloch. One of the reasons Rome was able to defeat Carthage nearly two and a half thousand years ago, was the hatred this practice inspired among the subject peoples of the Carthaginian Empire, whose children, after all, were the ones used to make the sacrifices.

Even in bigoted, iron-hearted Carthage, parents tried to avoid giving up their own infants for slaughter.

Indeed, in every generation until the present one, the Western world has always viewed the destruction of infants as something so terrible that it could only be thought of as resulting either from utter despair or utter degradation. That Medea should seek revenge on her husband by killing her own children was viewed by our classical ancestors as an act of hysterical barbarian jealousy carried to the point of sheer insanity. And that, three millenia later, gin-soaked slatterns in 18th century London could simply suffocate their babies in fetid slum alleys in order to be rid of them was considered, not mere sensible feminine self-interest, but rather as the ultimate instance of the brutalizing effect of mass poverty.

It has been taken as practically an axiom, throughout most of recorded history, that sane, even *partly* civilized women do not willingly destroy their own children. If anyone could do that sort of thing, it was more likely to be a man. From Laius to King Herod to the

obscene Giles de Retz, the killing of infants (born or unborn) has generally been regarded both in myth and in history as not only a monstrous sin, but also a perversely "masculine" one.

Thus, until quite recently, the impulse to resolve the problems and responsibilities of pregnancy by abortion was usually associated with the more gross and cowardly sort of male; the kind who "got a girl into trouble" and then tried to slink away from any obligation by having the child cut out of her in some wretched back-alley surgery.

Most people assumed (perhaps wrongly, as things have turned out) that only ignorance or terror could lead a girl to willingly go along with such a proposition. Which is why, during the late 19th and early 20th centuries, the main thrust of liberal American activity in this area was to try to provide lying-in hospitals where unmarried girls could have their babies without fear or humiliation, and then to arrange for the care of the children afterward (by adoption or in orphanages) if the mothers could not or would not keep them. The idea that large numbers of women would freely and of their own choice actually desire the death rather than the birth of their own children simply never occurred to even the most "liberated" thinkers.

It does now, though.

Infanticide (so long as it precedes the actual *delivery* of the infant) is not only legal but increasingly popular. And for the first time in history (save among the decadent upper-classes of ancient Rome) there is no pretense of desperation or poverty or superstition or insanity involved, nor is abortion sought mainly as the result of pressure from a frightened or callous male.

Indeed, as of now, the "male" has no say in the matter. Fathers cannot even legally prevent the abortion of their own seed. A recent court decision held that child-bearing is entirely up to the woman. (In this particular case, the "female" involved promptly proved the truth of this by having the child in her womb destroyed within hours of the judicial ruling, thus neatly eliminating once and for all the possibility of any sort of appeal).

So far as the life or death of any unborn child is concerned, the sole determinant factor in contemporary America is the convenience and personal preference of the pregnant woman. There is no need to seek out mitigating factors; it is not a matter of passion, not a matter of savage necessity, not a matter of grotesque and superstitious ritual. To abort or not to abort is, by law, simply a matter of choice, based on whether or not the modern liberated woman wishes to have her freedom and independence interfered with by the child (or children) she has conceived in her own body.

JOHN F. MATTHEWS

By whatever calculation one wishes to go on—by the estimates of the pro-abortionists as well as those opposed—something like one out of five pregnant American females in the last two years decided to have their children done away with before normal delivery.

Which is simply to say that the greatest single danger faced by any unborn infant in the United States nowadays is not accident or infection or miscarriage; it is the possibility of being deliberately destroyed by its own mother.

II.

The right to "abortion on demand" has been one of the chief goals of the Woman's Liberation Movement. Its achievement, through action of the United States Supreme Court, has been hailed as one of the great liberal and humane triumphs of the century. "For the first time," says Helen Gurley Brown, "it has finally been recognized that no woman should be required to bear a child unless she actually wants to, personally!"

There is an element of historical and physiological fantasy about that sort of statement which somehow typifies a good deal of modern American thought about "sex." It is hard to imagine any previous age, for instance, in which large numbers of people would seem completely oblivious to the fact that in order not to have babies, it is by no means necessary first to conceive and then to kill them.

Nearly every civilized society, ancient and modern, has recognized the peculiar claims of those who do not wish to have children.

The male priests of Cybele used to castrate themselves in hysterical ecstasy to preserve their sexual purity. Female followers of Athena (like the Vestal Virgins of Rome) were not only venerated for their wisdom, but also thought, by the fact of their chastity, to help ensure the health of the State. So too, the Catholic clergy and its celibate sisterhoods have been for centuries both the commitment and the career of those to whom the multiplication of mere flesh has seemed an inferior destiny.

In the long history of the West, there have always been fit and proper places in society for those who wished (for whatever variety of secular or sacred reasons) to shun child-bearing. As did, for instance, whole generations of Protestant maiden aunts and bachelor uncles, whose decent and honorable lives are now jeeringly described by the "sexually liberated" as nothing but a sham and a pretext (since beneath abstinence, to these earnest "reformers," there must certainly lurk as a matter of pure dogma some concealed symp-



tom of "homosexuality"—which, like abortion, ought to be brought out now into the open and redefined, not as a sin, but rather as a civil right).

To the passionate advocates of "abortion on demand," the idea of chastity is apparently as repellant as the idea of motherhood. It is not at all what they mean when they talk so insistently about the right to "preserve the privacy of one's own person."

There is a peculiar logic to the Women's Lib position which deserves a little attention. It is claimed that women have the right to determine who shall use their bodies. Which means, apparently, that when these women become pregnant, they do not blame *themselves* for it—nor even necessarily the father of the prospective child. Instead, they blame the baby for "inhabiting" them. What they demand, therefore, is the right to repel this invasion of their private parts—by killing the baby who is "using them" to get itself born.

To state the paradox—if it is one—another way, the same ladies who protest so vehemently that men should stop treating them as "sex objects" also demand abortion; which can only be required, one would imagine, if in fact they *are* sex objects.

Such naïveté (as well as its historical oddity) is further illustrated simply by keeping in mind the fact that one is not, after all, talking about cases of rape.

Many Americans do seem to feel, that there is no reason why any woman should be required to bear the child of a man who has *forced* her to have sexual relations with him. Rape is one of those situations (like those in which disease is a factor, or in which the life of the mother is threatened by child-bearing) in which abortion appears, at least to many non-Catholics, to have a very real moral justification.

After all, rape really *is* a violation of a woman's person and privacy. Most civilizations (including our own, until quite recently) have unhesitatingly condemned the assailant in such cases to death without mercy. And whatever the status of "women's rights" may have been, the male rapist was seen as having no rights whatever. In peacetime he was, when caught, exterminated; and in wartime he was viewed as one of the unspeakable horrors of invasion.

Oddly enough, though, one by-product of "sexual liberation" and the concomitant easy availability of abortion has been the almost total collapse of these harsh, "old-fashioned" attitudes toward rape. It is now a difficult crime to convict anybody of; the charge itself is frequently dismissed as being inspired either by "racism" or malice; and the tendency is to blame the girl, not her attacker (who is usually

JOHN F. MATTHEWS

absolved of responsibility by having been “led on,” or else is treated as an unfortunate victim of “mental illness.”)

Despite the clear evidence of the appalling mental and physical damage it can inflict, there appears to be a widespread feeling among intellectuals and working class males alike that with abortion, rape becomes somehow reducible to a sort of a joke. There are many Americans (and not just the readers of Penthouse or Playboy) who argue quite good-humouredly that the authors of popular fiction are perfectly correct; that the average woman in actual fact *likes* being raped—and that so long as she doesn’t actually have to bear a child, the whole thing is rather exciting, not to say educational.

Fifty years ago, one rape would shake an entire city. Now, however, the reported cases in urban neighborhoods run into the thousands every year. High schools and college campuses have undergone what would once have been described as a *plague* of rapes. And about all that has happened, in consequence (aside from some attempts in Ohio, New Jersey, California, Michigan and Connecticut to strengthen state anti-rape legislation), is that the National Organization for Women has formed a “National Task Force on Rape,” in response, apparently, to protests from a lesbian faction which feels that in this matter, at least, sexual permissiveness has gone somewhat further than they ever intended.

The main thrust of this new “feminist” agitation is not, of course, simply directed toward increasing legal penalties for rape (which would be anti-progressive), nor to providing increased protection for women (which would imply that they need it, and have no real right, for instance, to hitch-hike). Instead, one of the principle aims (shared by some up-to-date police groups) is to teach women how to be tougher and better able to defend themselves through instruction in unarmed combat techniques.

This is really not quite so silly in organizations presumably devoted to female “liberation” as one might think. If conventional manners and morality are to be abandoned as “restrictive” and “unnatural”—and if legal protections for women are to be repealed as “discriminatory”—then all one is left with is the possibility of self-defense. (Which was more or less what Hobbes meant, of course, by “barbarism.”)

Still, our concern here is not with the increasing American problem of rape, nor with how either to punish or prevent it. Our subject is legalized abortion. And what we need to keep in mind is that the overwhelming majority of abortions are not performed on victims of

rape, any more than they are on women with "medical disabilities" of any sort.

The real market for "abortion on demand" is among women who simply wish to avoid the consequences of their own completely willing and voluntary sexual self-indulgence.

Abortion is, after all, mainly the recourse of the unmarried.

What produces the pregnancies is what the Bible (and every known major civilization in human history) has always rather bluntly described as adultery. Technically, it always used to involve the notion of "defilement" or "impurity." And of course to commit it one must be more or less "adult"—whence, perhaps, the very odd American use of the word "adult" to mean *pornographic*, rather than as previously, "grown up and capable of responsibility."

There is nothing new about adultery. It is, after all, as ancient as the species that practices it. Most societies above the level of primitive Polynesia have condemned and punished illicit fornication, though many, at least on certain "class levels," have unofficially tolerated a good deal of it. None, including the most puritanical, have ever succeeded in wholly abolishing it.

But whatever the varying severity or tolerance of past attitudes and customs may have been, it is clear that ours is demonstrably the first generation in human history to give positive legal sanction and support to the practice of extra-marital sex.

The legalization of abortion and the further legal insistence that it is an act of improper discrimination against women for hospitals to refuse to provide this service (or for welfare or insurance schemes to refuse to pay for it) means not only that the general public (made up mostly of decent, loyal, law-abiding couples who would not dream of aborting their children) is required to help pay for the actions of the promiscuous minority through higher taxes and medical premiums to cover the group-shared costs, but also that extra-marital fornication has achieved the status of a constitutionally-protected right to which legal deference must be paid in eliminating (surgically) any consequences which the practitioner happens to find personally inconvenient.

Failure to do so is "discriminatory." The reason is purely biological. "Men can have their fun," it used to be said, without having to have babies. Women, on the other hand, have always historically had to "pay the penalty." Which is a clearcut case of sexual injustice if ever there was one.

Now, however, with legalized abortion-on-demand, women are finally recognized by the Supreme Court as having a constitutional

JOHN F. MATTHEWS

right to enjoy adultery with not much more in the way of consequences than are visited on libertine males.

It is interesting to notice, just here, the enormous difference between this current version of "women's rights" and the ideals and ideas which animated the Feminist Movement prior to World War I.

From about the middle of the 19th century onward, moralists and "women's leaders" joined increasingly in protesting the so-called "double standard"—under which men insisted that their wives and sweethearts be models of virtue and continence while at the same time reserving to themselves the right to indulge in all sorts of "masculine" vices (including, naturally, sexual infidelity). The inequity of this situation was obvious. Scores of plays and novels, along with hundreds of sermons and tracts, found their principal theme in protesting the "hypocrisy" of this "moral relativism." But the widespread and highly vocal distaste displayed by "liberal opinion" over the "double standard" was not in any way based on the assumption that women should have the same right to be sluts as their husbands had to be lechers and libertines.

Indeed, to the contrary, the whole argument was directed toward proving that men ought to raise themselves to the same level of decency and decorum and moral and intellectual purity as the ladies to whom they were so disappointingly disloyal.

The increasingly popular notion that women deserved fair treatment (equal rights to own property and to vote, equal pay and recognition for equal work and services, etc.) did not, until quite recently, have the corollary implication that women somehow had an obligation to aspire to things which (in actual practice) most respectable men from the 18th century onwards tended to think shameful in males as well as in females.

The notion that anybody (man or woman alike) had a "legal right" to "foul" speech or to "low" behavior or to personal disloyalty or bad manners or to the unrestricted indulgence of any and all appetites at any and all times or in any and all places—would simply have struck the unbrutalized Women's Rights advocates of the (quite recent) past as barbarous lunacy.

What they wanted credit for, after all, was not their vices but their virtues. The object of their attack on the "double standard" was not to lower women to the level of the most abandoned men, but rather to raise the standards of masculine behavior to the level of those demanded by the real (as opposed to the "hypocritical") ideal of the "True Gentleman."

Today, of course, all of this has completely changed. For better or

#### THE HUMAN LIFE REVIEW

worse, one of the main things “demanded” by “Women’s Lib” is the rejection of the idea that women are (or have any responsibility to try to be) better than men.

The traditional view of women as (among other things) mothers and healers, as “civilizing agents,” as custodians of public and private morality—all these things have ceased, for many presumably “better educated” women, to be either an ideal or even remotely desirable.

From World War II to the present, the aspiration to be “ladies” has largely been jettisoned by “female opinion-makers” in favour of the right to enjoy “masculine pleasures” at pretty much the same level that previous generations had thought to be characteristic mainly of the crudest and most irresponsible segment of male society.

#### IIII.

One of the basic pressures for “abortion on demand” is the desire to make it possible for women to live just as licentiously as men, even though in actual practice the great majority of men are in fact quite faithful to their wives, and a good deal less obsessed by sex than by their jobs, politics, hobbies, games, sports and favorite television programs.

What is historically curious is that this demand should have become so unrelenting and effective just at a time when one might have thought that abortion would have become a much less important method of achieving sexual irresponsibility than it was in the past.

For one thing, the widespread toleration and consequent spread of homosexuality (to which increasing numbers of practitioners are being publicly recruited by tireless effort and propaganda) plainly places few demands on the services of abortionists—even though the “liberated persons” involved in all this are perhaps more single-mindedly and obsessively concerned with sexual activity than more normal men and women would consider either possible or desirable.

But what one really might have thought would make an even greater difference, now, is the widespread availability of contraceptive pills and other devices which—combined with the ready accessibility of what is called “sex-education”—should have made the need for abortion almost all but obsolete.

Unfortunately, this simply has not happened. Quite the contrary, in fact. The last decade has seen an enormous increase in the number of illegitimate pregnancies, an astonishing lowering of the age at which they occur, and a vast multiplication of the number of “teen-age” girls who demand the “termination” of their unwanted maternity.

JOHN F. MATTHEWS

Indeed, given the number of abortions performed since “legalization” in America, it would appear either that “sex education” and “contraceptives” are both remarkably ineffective, or else that the people to whom they are made available are extraordinarily immune to the promptings of what used to be thought of as common sense.

Certainly the present child-bearing generation cannot be described as “innocent” or “uninformed.” They have been told, endlessly and in great detail, what to do and how to do it. They have seen it done in movies; they have read of it in books and magazines; and they are certainly under no illusion, by now, that babies are delivered by storks, or that pregnancy is somehow the product of moonlight in the cabbage patch.

Beyond which they also know about (and have easy access to) means to prevent conception which are supposedly 99% foolproof. Mechanical devices, chemicals—the lot—are available at any drug store; and the day when one was supposed to have a certain proven marital status to be able to obtain such material (and to be rather ashamed to ask for it, married or not) is long since past.

When girls on college campuses demand (and receive) the services of a full-time gynecologist as part of the school’s regular “health services,” when provision of contraceptive aids and instruction is considered a normal dormitory or “bookstore” amenity for today’s adolescents all over America, then it can only be concluded from the frequency of abortion that a good many young people are simply not paying attention.

Or, more likely, that they simply don’t care.

The use of contraceptives, after all, implies taking a little trouble. It means exercising what to most people might well have seemed the barest *minimum* of restraint if children are not wanted. Oddly enough, though, it appears that to some of the more “liberated” any trouble at all is entirely *too much* trouble.

As a 20-year-old panelist on Woman’s Rights recently proclaimed in Boston’s Charles Street Meeting House, “All that counts is freedom, right? I mean, I’m not going to be a (deleted) breeding machine, or a (deleted) nun, either. I’m going to (deleted) around as much as I feel like, and if anything happens, I’ll have an abortion. So what’s so complicated?”

There is not, of course, anything complicated about it. Everybody, today, is taught everything there is to know about sex—except the idea of restraint. No matter what you do, there is (as in so much of American life) always a “back-up position” in which somebody *else* will take care of the consequences of your actions.

#### THE HUMAN LIFE REVIEW

The one obvious result of the recent emphasis on "instruction" is to remove any stigma (or worry) from what used to be the more or less accidental triumph of instinct over the moral precepts of self-control and continence, and to change youthful sex-events from the "resisted-unusual" to the "unresisted-commonplace." Which is not to say that most American girls do not still reject the "social necessity" of being promiscuous, or that an entire generation of American boys has turned into what the urban slum areas like to hail proudly as "studs."

What has actually happened, rather paradoxically, is that the constant pressure on adolescents to "perform well" sexually has resulted (in those co-ed dormitories of which our modern universities are so unaccountably proud) in the not unpredictable phenomenon of a great many cases of male impotence among today's supposedly tireless adolescents.

They are not at all tireless, of course. They are simply young and normal and often quite decent. But they are also the products of a society in which two of the largest selling magazines in the country are *Playboy* and *Penthouse*.

Given the continual advertising and promotion of the doctrine that a) sexual gratification is the only important value in society and the sole definition of "health," and that b) everyone must be able to "satisfy" at all times or become an object of ridicule, it is not at all surprising that many shy and inexperienced boys find themselves rendered totally incapable by uncertainty and embarrassment. (Which, if it goes on long enough, can sometimes make them fair game for the homosexual argument that women are all, by nature, voracious and demanding monsters, and that only other "men" have the sympathy and tenderness to be appropriate partners for "sensitive" youngsters. This historically preposterous identification of "sensitivity" with perversion is another instance of the lingual miasma created by the sort of people who are capable, as noted earlier, of reducing the world "adult" to a synonym for obscenity).

It is an odd fact that all the "instruction" offered so freely in today's schools somehow fails to mention the quite predictable consequences of promiscuity, or the problems which are posed (physically and emotionally) when physical gratification becomes the main object in human life. There is no lack of data on the subject. The unrestricted "pleasure principle" was experimented with by followers of the hedonistic philosophy of Aristippus as far back as the 5th Century B.C., and the unhappy and unsatisfying consequences of

JOHN F. MATTHEWS

continued self-indulgence had been fully reported by observant philosophers as far back as Socrates, Xenophon and Zeno.

Which is why, centuries before Christianity was even dreamed of, educated Aristotelians and Stoics and Epicureans were brought up to lead lives marked by moderation, self-restraint and domestic fidelity. And those who doubt that such "historical" evidence is relevant should note that Masters and Johnson (who can lay some claim to being among the architects of the "sexual revolution") reach precisely the same conclusion about promiscuity in *their* latest book (to the dismay of some of their more vocal journalistic admirers).

Still, from grade school manuals to the immensely profitable publications of the ineffable Alex Comfort, all the emphasis is now on "mechanics" and "variety." So too, in our fiction, our films and our popular journalism, homosexuals, satyriasts and nymphomaniacs are nowadays presented not as hag-ridden obsessives but as really quite attractive people, leading lives which are every bit as good (and as happy) as anybody else's. In the brave new world of sensation-on-demand, "swingers" and "studs" are real "fun people," and ideas of love and fidelity simply aren't even in it.

For just as the profound emotional rewards of restraint and commitment are not mentioned in the "how to do it" guidebooks, so too the pain inflicted by infidelity is not considered important enough to mention either. What happens to real people in real life is not so interesting, after all, as the endlessly asserted right to "experience" and "freedom."

And here it should be noted that what this sort of "freedom" means to its more dedicated practitioners is not just "technical" or "legal" adultery. After all, sex without precise legal sanction is not quite the same thing, obviously, as sex without loyalty, affection or regard to consequences. For so long as there have been cities, certainly, people have sometimes lived together and loved and often raised children without the slightest regard for the "law" on the subject. Indeed, from the Middle Ages right down to the present, there has been widespread recognition of the fact that even without "benefit of clergy" there may be "common-law" relationships which are as loyal and affectionate as any formal marriage.

But when two people enter into sexual relations with the (presumably mutual) conviction that "if anything happens" they will *not* have a child, they usually do so mainly because they are uncertain about the permanence of their liaison.

Seeking to avoid "restraint" and to avoid "committing themselves," they shun the responsibility of parenthood, preferring instead the sort



#### THE HUMAN LIFE REVIEW

of "freedom" which is based on the belief that physical relationships are nothing more than a pleasure to be shared for as long as possible with anybody who happens along (and seems "attractive") and that nothing that happens in such circumstances is in any way binding.

The shallowness of such relationships, the rather unattractive reality of the sluttish or libertine life with its emptiness, its lack of affection and sympathy, its ultimate loneliness—all the defects which most high civilizations have found both obvious and detestable—all these things were, in the past, more easily cautioned against than seems possible today. And one of the main reasons, of course, was that indiscriminate or casual sexual indulgence *did* often involve some very real and obvious consequences.

Not that the pox ever seems to have deterred the wanton male, particularly. But for the woman who might have to bear the child, at least, the practice of a modicum of sexual restraint was not only "conventionally moral"—it was also, for an unmarried girl, a matter of simple common sense and practicality.

Now, however, with abortion to reinforce contraception, female promiscuity can be enjoyed (for a while at least) without even having to be particularly careful about it.

Just *how* casual and careless the ignorant, willful, "sex-educated" young can be is demonstrated by the current figures on venereal disease in America.

One must remember that by the end of World War II, it seemed that at least *one* of the practical restraints which used to operate to control our "freedom of sexual indulgence" had been pretty well eliminated. For the first time, venereal diseases were not only widely understood, but curable.

The treatments were so simple and so universally advertised (on subway cars, in public toilets, etc.) that there was every reason to expect that within a generation these relatively modern "scourges" would become completely obsolete. (Syphilis, among Europeans, only goes back to the discovery of South America; spirochete went to Spain along with Indian gold, and remained fundamentally uncontrollable right down to the discovery of penicillin).

Imagine the surprise of American medical scientists, then, to discover that after more than a generation of "public education," gonorrhea has now (for the first time in history) reached absolutely epidemic proportions, not among Asiatics or Africans, but American teen-agers. And that syphilis—once so greatly dreaded and now so happily thought all but obsolete—is again at work, on a larger scale than ever, ravaging the brains of jeering youngsters who are appar-

JOHN F. MATTHEWS

ently too indolent and irresponsible even to go in for the simple, painless treatment.

There were 3,000,000 new cases of venereal disease recorded in the United States in 1974 alone. And these are only the *known* cases. When asked in an interview why he postponed treatment, a grinning youth in Chicago replied, "Hell, if it get real bad, somebody take care of it for me anytime!"

Like gonorrhea, babies now rank in some circles as a sort of readily-extirpable disease; with abortion, pregnancy too can be "taken care of" practically anytime.

The Supreme Court has ruled that up to approximately the 28th week after conception, any girl or woman who wants to can have her unborn infant destroyed on request. Women have thus finally won, as the pro-abortion banners have so long demanded, "liberation from the tyranny of pregnancy."

Further, under certain circumstances, public agencies are obliged to provide funds to help pay for this sort of operation (decision in New Hampshire, July, 1975). Also under no circumstances (by a Court ruling of 27 January, 1975) can hospitals simply refuse to provide facilities for such operations.

In no case, moreover, is the "patient" (as these unexpectant mothers like to be called) required to demonstrate that she took any measures whatever to prevent the pregnancy which she now chooses to have terminated.

Her authority to do precisely as she pleases in regard to her (unborn) infant surpasses in some respects even that of the notoriously harsh and domestically omnipotent *paterfamilias* of ancient Rome. The Roman patriarch had the absolute right to kill his children—but only for acts of disobedience or immorality. The modern American female, on the other hand, has the right to destroy *her* offspring sight unseen and in a condition which a good many theologians and philosophers have always thought of as the nearest human approach to perfect innocence. They can be made not to exist simply because she does not wish them to exist. She needs no excuse, no permission or consent other than that of the co-operating physician, and is not even obliged to inform anybody.

Indeed, it has recently been held by the courts that in the case of a pregnant minor, not only is no parental agreement required in order to obtain the abortion, but also that *the permission of the minor is required* before anyone may even inform the girl's family that such an operation has taken place. (She might, after all, find it embarrassing

#### THE HUMAN LIFE REVIEW

to let them know of her pregnancy, and to tell them without her consent would be a clear invasion of her "right to privacy.")

"The great thing we are beginning to accomplish," said an energetic female state representative in Massachusetts, "is teaching people to realize that abortion is not a thing to be ashamed of!"

#### IV.

For better or worse it still (like conception) takes at least two to make a safe abortion.

However great their legal powers and authority, however efflated by "liberated ideas," prospective mothers who wish to be rid of their unborn children still do not have, as yet, either the brains or the skill to do it themselves in some neat, painless, pre-packaged fashion.

Unlike the ignorant and frightened servant girls who used to try to do the terrible business with a hat pin or rat poison (and often died of it), or those sallow, unwed adolescents who used to ride around and round on the plunging rollercoasters at Coney Island hoping to jolt themselves into a miscarriage, today's "well-educated" women have no earthly intention of hurting themselves.

Which provides the basis (as most "feminine needs" do, nowadays) for a rather thriving new service industry.

Abortion as a profession is not, of course, a contemporary invention. There was always a market for it among "betrayed damsels" terrified that they would be revealed as having committed adultery; among actresses, concerned with what maternity would do to their reputations as sirens; among prostitutes who viewed pregnancy simply as an unwelcome interruption of trade.

There was a time, of course, when this sort of thing was viewed as peculiarly characteristic of the decadence of "Europe." John Adams, Thomas Jefferson and others since them felt that these things were not likely to happen under the benign influence of American democracy. In actual fact, of course, abortion has existed in America for many generations. Slave women in the South used to give their mistresses advice (and African prescriptions) to help get rid of the evidence of "infidelity," just as similar "remedies" were available from presumably "wise" old crones in the cities and towns of the North.

More recently, every American city of any size has had, hidden in one or another of its dingier back streets, a carefully disguised "abortion mill"—whose existence was sometimes publicly revealed when some poor butchered girl bled to death in circumstances which gave

JOHN F. MATTHEWS

the game (and the address) away to the city authorities. Some of these places were operated by grim-faced midwives with no more surgical training than could be gained from disembowelling a chicken. Others boasted the services of a disbarred "medical man," frequently alcoholic or drug addicted. And a few, catering to the profitable desperation of the well-to-do, featured not only somewhat better facilities than the customary kitchen table and sink, but also the skill of a real, live, properly trained surgeon (often, supposedly, "European") who was willing out of his *own* desperation and greed to gamble (for a very high fee) on not being discovered.

The consequences of discovery were ruinous. For any qualified physician, they involved not only criminal prosecution but also public contempt and professional disbarment. The number of trained medical men willing to undertake such risks remained, for generations, very small. The great majority of doctors, along with the professional organizations of which they were members, all shared (or at least seemed to share so far as anybody could tell) the presumably widespread public view that the performance of abortions "on demand" (i.e., for no better medical reason than that the pregnant woman did not want to bear the child) was nothing more or less than surgical butchery.

And indeed, leaving aside all the other arguments which might be advanced for or against abortion, many medical men held (as many still do) that there was a considerable psychological risk for any woman who undertook to have her pregnancy interrupted in this fashion. Traumatic effects were easily observable, and guilt feelings could (and sometimes did) inflict, like rape, almost ineradicable damage on sensitive girls who let themselves be persuaded into an "unnecessary" abortion (i.e., *physiologically* unnecessary).

Even doctors who strongly supported the legalization of "therapeutic" abortions (in cases of rape, or to preserve the mother's own health) often took the view that abortion for mere convenience (like other forms of essentially "cosmetic" surgery) was simply a profitable but fundamentally immoral and ineffective way to treat the symptoms of a profound psychological disorder which was frequently only made worse by the supposed "radical cure."

So far as can be determined from published evidence, there was not, except on the extremely minute "liberal fringe" of the medical profession, any large-scale support for the idea of "abortion on demand" prior to the Supreme Court's famous decisions in January, 1973, which held that in the first three months of pregnancy, the Constitution's implied right of privacy prohibited any state inter-

ference with the decision of a woman and her doctor for an abortion, and that in the middle of pregnancy, where the hazards of abortion increase [for the mother], the state could intervene only to the extent of laws that protect the life and health of the woman having the abortion (i.e., to keep the woman from being injured during the formerly illegal process of removing her unborn child.)

In the mere three years since these decisions, American medicine has almost completely reversed itself. Far from clinging to its previous longtime disapprobation of what had always seemed a clear violation of the Hippocratic Oath, the medical profession has by-and-large embraced its new judicially imposed obligation to provide more-or-less unrestricted abortion in "the first two trimesters" with remarkable calm and acquiescence.

In a situation in which an outside governmental agency (i.e., the Court) has clearly intervened to alter the hitherto almost universally approved professional canons of ethical practice, and has laid upon medicine the legal obligation (based not on medical but purely on social and constitutional grounds) to perform acts and operations long held to be abominable, inexcusable, and meriting disbarment from the medical profession—in this situation there has been not a shred of protest from "organized medicine," from which, in the past, the faintest hint of so-called "government interference" (in the matter of rates and fees, or in the "management of medical services," for instance) has always provoked instant and furious outcry along with well-funded lobbying at every level of the legislative process.

There have been some *individual* protests, of course. A few outspoken doctors have joined "right to life" groups, and a few others have objected on personal or religious grounds to what they consider a violation of Christian and/or medical ethics. But unlike France, where "liberalized" laws have been rendered relatively ineffective by the absolute refusal of large numbers of French doctors to have anything whatever to do with abortions, American medicine has accepted its new "social responsibility" without objection and *without conspicuous complaint*.

Indeed, the only "official" action taken by "organized medicine" has been to spring publicly and vocally to the defense of any colleague who gets into trouble for having taken advantage of the Court's ruling. Thus in the Edelin case in Boston, and in others dealing with "fetal experimentation," the usually conservative "medical spokesmen" find themselves in the unlikely company of radical Women's Lib types, viewing with alarm attempts by local authorities to place restraints on the activities of abortionists and interpreting

JOHN F. MATTHEWS

“interference” with the rights of women or physicians as being either sexist, racist, or anti-scientific, depending on the bias of their special perspectives.

The fact is that, however unexpected it may seem, many American doctors have shown themselves not only willing but positively eager to get into the business of providing this recently legalized “health service.” And of course it may be just this very “business aspect” which accounts for what might otherwise seem an improbable lack of resistance to this revolutionary change in medical attitudes about abortion.

For many, many years, after all, the American Medical Association has held firmly to the view that the practice of medicine is, and should be, a purely private, profit-making enterprise, subject only to such restraints as might be implied by the aforementioned Hippocratic Oath, or by such statutory requirements (sanitation, licenses to practice, etc.) as might be imposed by law with the advice and consent of the AMA itself. From this particular economic viewpoint, medicine is simply like any other form of business or professional enterprise: whatever the public is willing to pay for, a smart, imaginative business man has the right to provide and make a profit from. There are *some* ethical limitations, of course, just as there are for structural engineers. The ultimate “free-enterprise” notion of *caveat emptor* (placing the entire necessity for wisdom and good judgement on the purchaser rather than on the purveyor) is not and never has been wholly applicable to the practice of medicine, even in the United States.

Advertising and competitive bidding for patients has never been permitted. High standards of education and training have always been required, and some interest in public service has always been encouraged so long as no legal or social *obligation* was involved other than military service in wartime (or as part of a peacetime “draft”). And as a further inhibition on unrestricted “freedom of enterprise,” professional organizations like the AMA have always opposed the sort of unscientific fraud and malpractice which used to wreak such havoc on the bodies of desperate and unwary sufferers in the days when anybody who wanted to could pass himself off as a “physician.” (See, for instance, the AMA’s vigorous longtime crusade against quack cancer cures, and against such pseudo-scientific fads as the recent West Coast exploitation of so-called “Philippine psychosurgery.”)

Still, it remains a profoundly popular notion in American medical circles that if a man has mastered the knowledge and developed the

#### THE HUMAN LIFE REVIEW

skill to practice some officially approved form of medicine, then he must also have the absolute right to profit from this to whatever degree he finds possible, and to do so in any way which is not actually illegal. And if some hitherto-banned medical procedure is now asserted by the Supreme Court to be not only legal but constitutionally obligatory (because the patient has the *right* to such treatment)—why on earth should any sensible, hardworking medical man object to that?

The reason one might have expected *many* to object is that the idea of abortion as a “legal right” plainly constitutes an act of overt governmental interference into the free practice of medicine.

It does not merely *permit* abortion; it actually requires members of the medical profession to provide such services (since one way or another pregnant women now have a right to be “free of their unborn babies”—and the only people who can do that for them are licensed physicians).

For doctors who disapprove of such procedures there appears to be no remedy other than to practice some specialty which never obliges them to be confronted with abortion. For a general surgeon or gynecologist or anesthetist on an American hospital staff, the libertarian right to “the free and unimpeded practice of the medical profession” is certainly impeded, one would think—certainly in the cases of Catholics or other doctors who for ethical reasons, find abortion morally abhorrent and/or professionally uncalled for.

What has happened, under the new system, is that although individual doctors may continue to be able to refuse to perform acts which they believe to constitute the commission of a sin (professional or confessional), the institutions which provide medical services to the public are obliged (if they do not wish to be sued) to provide *somebody* to do abortions, no matter what the views of the medical staff or the hospital management. Otherwise, technically at least, they can be charged with violating a woman’s recently discovered “civil right” to abortion.

Beyond the by-no-means idle threat of suits sponsored by one or another of the various organizations, (e.g., the American Civil Liberties Union) which now so energetically involve themselves in “women’s issues,” there is also the threat of other economic pressures. One of the most interesting features of modern American life is the regular and habitual use of tax money by governmental agencies to produce deliberate social change by means of what *Time* magazine used to like to call “the carrot and the stick method.” (Others,

JOHN F. MATTHEWS

less euphemistic, have simply described it as the effective alternation of bribery with blackmail).

In the case of hospitals and universities (using authority and tax dollars granted by Congress) Federal agencies like Health, Education and Welfare are regularly involved in huge (and often quite useful) research projects, as well as programs such as medical assistance to the elderly, student loans, etc.

What is surprising (to those still naive enough to think of American universities and hospitals as independent institutions, each with its own intellectual and moral integrity) is the rapidity with which such institutions can be persuaded to agree to carry out almost *any* new governmental directive (however intrusive or controversial) simply by being reminded of the power of the disbursing agencies to withhold funds from those regular programs on which survival now generally depends.

Thus Welfare clients are now entitled to abortion along with all the other goods and services provided by the modern state. To deny this right to the poor (i.e., to fail to subsidize their sexual indulgences simply because they cannot afford to pay for them personally) would obviously, to the HEW mind, be a gross instance of class and/or economic discrimination. Therefore any hospital receiving public funds (whether for research or in the form of payment for medical services) has been made rather vividly aware that it must either provide the desired abortion facilities or risk serious loss of income. (The procedure is exactly the same as that used in connection with the famous catch-all Title Nine directives from HEW, which recently instructed universities and colleges that from now on sex and color have to be considered among the primary qualifications for teaching appointments).

What this results in, of course, is perfectly obvious. Doctors who will not perform abortions are not likely to be employed on the staffs of hospitals which may be called upon to provide them. For young doctors especially, it is perfectly possible that they may now quite legally be discriminated against in the matter of employment, etc., for holding opinions (medical or moral) which go contrary to the present views of the courts.

To the lay observer, all of this might seem to introduce precisely that element of "government control" and "government interference" which the medical profession has so long and effectively resisted. Yet it has aroused no public protest from the usually quite vocal upper echelons of the well-organized medical profession.

Equally curious, none of the *opponents* of abortion have viewed



#### THE HUMAN LIFE REVIEW

this odd and rather uncharacteristic willingness of "organized medicine" to accept compulsion from "outside the profession" as anything worth pointing out or wondering about. Thus, the "right to life" people denounce abortion mainly as a crime of the courts (and not of the medical personnel who actually perform the abortions), while "medical spokesmen" frequently denounce "government interference" as a *social* crime threatening the entire health of America (except, apparently, in those instances where it increases profits of physicians).

#### V.

The traditional figure of the kindly, benevolent old neighborhood doctor, more concerned about his patients than about his bills, has not entirely vanished from America even though his sort of practice is now all but extinct. Thousands of American physicians and surgeons are profoundly devoted to the idea of service through healing. They are found in private practice; they are found in important new voluntary pre-paid group medical services like the Harvard Community Health Plan; they are found in Army and Navy hospitals where privates and ordinary seamen are treated by the same personnel that care for presidents and senators.

Still, there is another and not at all insignificant group of doctors for whom medical practice is simply one of the few ways left in which to become rich. Which is not to say they do not deserve every penny they make out of medicine. They earn their way to prosperity, usually, by the good old-fashioned American method of incredibly hard work combined with the development of quite extraordinary professional skills. But their judgement of their "professional obligation" is sometimes strangely limited to the question of its profitability.

For doctors like this—for doctors who are, as Marcus Loew said of the movies, "in the business for the money there is in it," the legalization of abortion has opened up some striking new opportunities not only for employment but also for investment.

Unlike births and appendectomies (which generally take place in fully equipped hospitals) most "pregnancy terminations," as they are politely called now, take place in small, privately operated "abortion clinics."

These unusual little establishments have sprung up like magic in metropolitan areas all over America. According to a report by Planned Parenthood-World Population, Inc., "90% of the increase in legal abortions between the first quarter of 1973 and the first quarter of 1974 was accounted for by non-hospital clinics." And in

JOHN F. MATTHEWS

fact some hospitals are now referring their early-stage abortion patients to just this sort of clinic, in order to save staff-time and surgery space for other, more obviously “medical” purposes.

For the most part, “abortion centers” seem to be efficient, sanitized little office complexes consisting of a pleasant, Muzak-equipped reception lounge, a few consulting-operating rooms, and perhaps even a number of “beds” for the supervised convalescence of those non-mothers who waited a bit too late for mere out-patient treatment. (The disposal of really “advanced” cases, of course, usually requires the facilities of a regular hospital).

Some, like Women’s Medical Services, Inc., of Philadelphia, try to make the whole business resemble nothing more unusual than a trip to a fashionable beauty parlor. They provide elegantly appointed “recovery rooms” in which whole groups of women can relax side by side in the security of knowing that other people are *also* undergoing this now-commonplace “treatment” (while gazing, if they wish to, at the comforting spectacle of a large, semi-psychedelic original mural done in warm feminine colors which apparently represents sunrise—or perhaps sunset?—in a rather Disney-ish paradise of idyllic mountains and forests and gaily flowered gardens through which flutters a symbolic dove of peace).

Not all abortion clinics are so artistically appointed. But whether lavishly cosmetic or chastely utilitarian (as on the upper West Side of Manhattan) the principal business in these places is simply to utilize the latest and most up-to-date chemico-surgical procedures to destroy and remove embryonic tissue which would otherwise grow up to be an adult human being. Killing unborn babies is a very profitable business. It has to be, because obviously no sane doctor is likely to enter this line of work purely for the fun of it, or with any real delusions about embarking on a self-sacrificing life of dedicated public service.

It is interesting to note, however, that some of the people involved in this kind of thing are so anxious to get a good return on their investment that they rather tend to overdo it. In New York City, for instance, a recent investigation indicated that some of these little clinics were recommending abortions to women who weren’t even pregnant. “Of course you are, the tests prove it; all you have to do is get up \$150.00 and we’ll take care of it for you,” said one clinician—to a woman reporter who had proffered a *male* urine sample!

There may not be very much of that sort of malpractice, if only because, from a financial point of view, it is plainly unnecessary. In Brookline, Massachusetts, a perfectly “respectable” abortion clinic

performed 500 successful "terminations" in about eleven months (which is by no means exceptional). In some locations—particularly in "college towns" such as Cambridge, Mass., and the Berkeley-San Francisco Bay area of California—the proprietors managed well over a thousand abortions in the very first year of legal operation.

And just here, perhaps, one should note that "higher education" in America produces a degree of sexual carelessness and incontinence otherwise found only among lower-class black "welfare mothers." The latter, of course, usually *have* their children (leaving it to the State to support them, perhaps, but at least letting them live). But for the more prosperous and better-schooled young white American female (who increasingly seems to share with her poor black counterpart the view that "contraception is really too much trouble") it is also too much trouble, apparently, to actually *produce* the child. It's not so much a horror or a shame, it merely "interferes" too much. It provides them with no welfare advantages, since they are often not *on* welfare; and in the long run it is easier and cheaper simply to get rid of the thing.

This is why it is now customary, in college newspapers and in the so-called "alternative" or "underground" press (whose readership is made up mainly of relatively well-to-do young people) to find advertisements not only for "sexual counseling" but also for "abortion clinics" under the rather mild disguise of "abortion referral centers."

So far as one can find out, this is the only form of medical practice other than drug treatment centers which seems to be permitted to advertise (even indirectly) without objection from professional medical organizations. The reason, apparently, is that there is nothing "unethical" about advertising a "service" of this sort so long as the names of individual physicians do not appear.

Also, as noted earlier, there is no longer anything unethical (or, more importantly, illegal) about providing an abortion to an adolescent girl without letting her parents know about it. If a girl would be embarrassed to have her family find out that her "education" has included getting herself pregnant, the abortionist is now required by law to respect her desire for secrecy. All of which has certain very clear advantages, of course, from the doctor's point of view. There are no angry or tearful scenes; there is no need to deal with shocked or grieving relatives; all that is required is a good bank to put the girl's money in (or, in the case of adolescent welfare patients, the State's money).

For a doctor whose interests do not wholly run along the lines of "life-saving," the working conditions in an abortion clinic (with

JOHN F. MATTHEWS

legalization they are no longer publicly called "abortion mills") can be seen to have a certain attraction. For one thing, it can be run along straightforward factory lines, with fixed hours, regular appointments, none of that enervating old-fashioned nonsense about physicians "being on call at any hour of the day or night."

The traditional sort of obstetrician, concerned mainly with helping *birth* take place, always had to be ready to deliver babies more or less at the babies' convenience—whenever they were *ready* to be born. The abortionist, on the other hand, escapes this sort of dependence on "nature" almost entirely. Like a high-class dentist, he can keep fairly strict office-hours—working late only when he wants to get a few more patients in.

And even better than dentistry, of course, is the fact that he is not obliged to take out only diseased tissue—nor to replace what he removes with a skillfully-contrived substitute. All he has to do, for a few hours a day, is get rid of babies for women who do not want to let them live. After which he (or of course "she," as the case may be) is free to go home, well-paid and well-respected—another very real and very important change. A few years ago, a man who destroyed unborn infants for a living would not only have gone to jail, he would also, on all but the very lowest level of society, have been treated as an absolute pariah.

Not anymore. Just as we noted earlier that no stigma any longer attaches to the adulterous woman in America, so too none is now associated with the profession of abortionist. Once legalized, it instantly lost all connotations of shame, with the result that medical practitioners of this "skill" now lead ordinary and well-regarded lives, like any other professional person. They join tennis clubs, serve on the PTA, compete in sports' car rallies, and do all the other things that prosperous suburbanites do (including, in one instance known to the author, enthusiastically circulating petitions against "capital punishment as a form of legalized murder.")

Some idea of how far America has moved in this matter may be gathered from the recent well-publicized case of Dr. Kenneth Edelin, resident in surgery at Boston City Hospital.

Dr. Edelin was charged with manslaughter in the death of an unborn black male infant about six months old. The basis for the charge was not that he had cut the squirming little creature out of its adolescent mother's womb (which was simply "legal abortion") but rather that he had allegedly undertaken certain procedures *beyond* abortion (smothering, etc.) in order to make absolutely certain the little boy was safely dead.

## THE HUMAN LIFE REVIEW

After a long, rather complicated trial (of which more later) Dr. Edelin was in fact convicted by a jury, and sentenced to a year in prison. But having delivered himself of this sentence, the judge promptly suspended it on the grounds that there was a certain ambiguity about sending a man to jail for what so many authorities seemed to think of as nothing but a perfectly commonplace legal abortion.

What was interesting about all this was not only the immense public support given to Dr. Edelin by the Women's Liberationist organizations (which was predictable) but also that provided by the medical profession generally and by his employers and colleagues at Boston City Hospital specifically.

His explicit condemnation by a jury of his peers had absolutely no adverse effects whatever, either on his career or on his personal and professional popularity. To the contrary, on his return to work at his old job as surgical resident, the nursing staff at the hospital turned out to greet him (in front of television cameras) with smiles and waves and approving hand-claps. And a few months later, graduating students at the Methodist-founded Boston University Medical School chose Dr. Kenneth C. Edelin out of all the doctors in America as their "man of the year" and invited him to make a speech to them.

There are many unusual features about our rapidly evolving "civilization," not the least of which is the enormous number of women and girls whose enjoyment of sex somehow requires them, literally, to have the products of that enjoyment destroyed. But to have the person who *does* that sort of work elevated to the status of public and professional hero simply because he wasn't actually sent to jail for it—is really quite unprecedented, even in America.

What is *not* so unprecedented, of course, is the fact that some of the things which are happening with the newfound respectability of abortion are things which we have been through once before with medical people—and not all that long ago, either.

## VI.

If the majority of abortions are performed in "outside clinics" (with the embryo simply disposed of along with the other surgical wastes), still a not inconsiderable number are performed in modern, fully-equipped hospitals with medical school connections and extensive facilities for research.

And it is just here, in connection with "research" that one of the

JOHN F. MATTHEWS

truly grave questions about contemporary medical ethics has recently been raised.

According to current judicial and medical dogma, the human embryo does not become a real "person" until it is "viable," i.e., until it can survive outside the protection of the mother's womb.

It is alive, certainly; it can kick and twist, it can cough, it has its own heart beating to its own personal rhythm—yet for all practical purposes it has been defined as not yet really existent and hence devoid of "human rights." Which does not prevent it, of course, from being "useful."

What has happened in many places (again most notably in Boston where a court case is pending about the question of medical responsibility in such matters and where, as in New York, new state laws have been passed imposing certain limitations on the practice) is that the living embryo in the mother's womb has been used in medical experiments to test the effects of various drugs (antibiotics, etc.) on as yet unborn infants. The technique is simply to administer these drugs to women who intend to have abortions, and then to see what happens. Further experiments have also been conducted *after* abortion, examining and analyzing the tissue of the condemned "fetus."

Confronted with the possibility of legal restrictions on such practices, the reaction of the medical profession has been extremely energetic. As already noted, few seemed to care much one way or the other about the legalization of abortion itself, save insofar as it meant that those doctors who wished to do so were now legally free to profit from it. But the idea of any limitation of *experiments* on "fetal material" has been greeted with a very real, highly organized campaign of protest.

The problem, of course, is that up to now doctors had to wait for miscarriage, still-birth, or the presence of a dead pregnant mother in order to be able to experiment on unborn human infants. But with legalized abortion, obviously, they can (theoretically anyhow) get an almost unlimited supply of fresh experimental material. And indeed, from a medical researcher's point of view, with more than two million infants at various stages of pre-natal development removed from their mothers' flesh in the first two years of legalization alone, it seems an almost criminal waste simply to throw them away. Much better, as in the Boston case, to "experiment" on them before they are finally disposed of.

"Such experiments," it has been authoritatively stated by a committee of Boston physicians, "may lead to highly useful knowledge. It

may, for instance, teach us how to treat infections in fetuses that are *not* to be aborted" (i.e., actually permitted to live).

The argument is interesting. It is precisely the same as that advanced by Nazi physicians in European concentration camps in the 1930's and 40's to justify their experiments on living Poles, Gypsies, Russians and Jews (not to mention the retarded, the senile or even the occasional "Aryan" who was considered to be a political opponent of the regime).

Like "fetuses," the victims of these widely reported wartime experiments were simply defined as not fully human. They were members of "inferior races" or possessed "diseased mentalities" and hence were no more "human" than dogs or rats or other "experimental material."

Anything done to such creatures (freezing them to death, drowning them, injecting poisons, testing gasses on them, seeing how long they could live under torture) was morally justified, it was claimed, since "it might eventually lead to knowledge which would be useful to 'real' human beings." Similarly, in modern American medicine, the "fetus on its way to abortion" has precisely the same status as the Jew (on his way to the gas chamber) once had in Nazi Germany. It is simply an inferior, non-human animal slated for destruction anyhow, so why not use it in some way before the end comes?

One cannot overestimate, in this connection, the importance of the fact that the creature is "doomed" no matter what else is done with it. Because if that were *not* the case, it would be treated (and viewed) entirely differently. If a "fetus" at an identical stage of development manages to get itself *born* (however prematurely) the same doctor who might otherwise have "experimented" on it will instantly begin to think of it as a "human baby" and fight as hard as he knows how to save its life.

So, too, he does everything possible to protect the unborn child of a woman who *wants* to have her baby—because in *that* case, the little creature is an "infant" from the very beginning.

The whole question revolves, as noted earlier, around the mother's attitude and intentions. The only "rights" involved are her's—and the ultimate decision and definition of the child's status and fate are in her hands, and nobody else's.

This is why the element of *consent* is the one limitation which even the most vocal proponents of "fetal experiment" are more or less entirely agreed upon. In order to proceed with that sort of experiment, the doctor must first get permission. Not from the baby, of course, but from its prospective non-mother. Thus, if medical science

JOHN F. MATTHEWS

wants to know what effect certain drugs have on pre-natal development, it cannot proceed merely along the traditional scientific lines of "every inquiry justifies its own existence." Instead, to provide an appropriately "moral" basis, the "mother" has to be willing to agree to it first, otherwise it would be a further invasion of her privacy. The unborn baby is its female parent's property; and just because she plans to have it destroyed does not mean that one can do things to it without her permission, any more than one could come into her house and use her telephone without her permission.

But of course once that permission has been *obtained*, the moral problem apparently ceases to exist. The things that are to be experimented upon are not infants after all; the mothers have spoken, and they are now only fetuses; and so long as you catch them before they escape from the womb it doesn't really count.

One reason it doesn't count is that a great many people appear to have agreed, suddenly, that little creatures of this sort are really much better off dead. They are mostly illegitimate, their mothers obviously don't want them; all that would happen if they were allowed to live and grow up is that they would roam the streets and become a dreadful burden to everyone including themselves. . .

And just here it is worth noting, perhaps that despite all the presumed disabilities which our society imposed for centuries on the condition of bastardy, nobody until now ever suggested that as a matter of public policy the best way to treat unwanted children is to destroy them. However inadequately by modern standards, Western civilization generally tried to take care of its bastards. The nourishment and education of abandoned children has in every age been hailed, in the West, as an act of virtue and humanity. Foundling hospitals devoted to the succor of unwanted infants date back to the earliest Middle Ages, and even where such regularized *institutions* did not exist, the custom was to leave anonymous children to the care of the church. Such "orphans" were sometimes brought up by the priesthood; sometimes placed with poor and pious families to be raised under clerical guidance. In this regard, at least, even the legendary and magical career of Pope Gregory the Great is not a particularly unusual one.

And indeed, when one stops to think of it, the practice long antedates even the beginnings of Christianity. It is astonishing how many of the fabled "heroes" of antiquity were in actual fact "foundlings." (Lord Raglan used to argue that from an anthropological point of view, this seemed almost to be *required* of a true hero!) In mythic Greece or Rome (or Scandanavia) the abandoned sons of kings (or



#### THE HUMAN LIFE REVIEW

gods) were always being adopted by shepherds or priests or other kings (or wolves) and raised to the point of being able to claim from destiny that vast and marvelous heritage to which their unusual abilities (and ancestry) entitled them.

And just in case anybody imagines that this is all merely a matter of old fairy tales, it is a matter of historical fact that the last five hundred years or so are replete with completely authentic examples of famous and quite extraordinary people who were born out of wedlock, or unwanted.

Leonardo da Vinci, Cesare and Lucretia Borgia, Don John of Austria, America's famed Alexander Hamilton and the great 19th century pianist Thalberg come easily to mind as examples of bastardy—just as George Bernard Shaw does as one of that incalculably immense class of prominent and accomplished people whose childhoods were complicated by the fact that they were clearly the unwanted offspring of mothers who would have preferred never to have had them in the first place.

The decision as to whether or not such persons are to be born, in modern American society, now rests entirely with their mothers. Under the sponsorship of the country's best liberal minds, the eternal human problems of bastardy and rejection are to be solved once and for all simply by eliminating the children whose birth would raise the problems in the first place. And the role of the medical profession in this up-to-date system of social responsibility is simply to serve as pre-natal executioners.

Under such circumstances it is perhaps not entirely surprising that some of our most talented and dedicated medical people should try to salvage something of their ancient mission as healers by making abortion into something a little less wasteful than the mere butchery of unwanted "fetuses" (i.e., to try at least to turn the process into something useful along the lines of medical "research"). After all, doctors are sworn to protect life. There is no question, really, that most of them try, quite devotedly, to do exactly that. And funnily enough, their very commitment to this ancient professional ideal leads directly to another of the many paradoxes implicit in this business of abortion.

At the opposite end of life to pregnancy, it is the practice of modern medicine to keep poor, weary, worn-out, pain-riddled flesh "alive" (more or less) far beyond the point at which it can function in any way that might remotely be described as human. Terminal cancer patients, for instance, long since turned into something rather like terrible vegetables, with their failing organs still laboring away, the

JOHN F. MATTHEWS

heart still spasmodically pumping blood around a system which, if the patient momentarily rouses from his opiate slumber, seems to be nothing but a screaming mass of ache and agony—these people are not allowed to die. They are preserved (in the midst of a complex miracle of bottles and tubes and expensive “life support” systems) to the absolute and ultimate end of indignity and suffering.

Is it the protection of life that is involved here, or the “experimental challenge” to see how long one can keep the ravaged organism functioning at some level or other even when all hope is gone except the researchers’ hope for knowledge? It is hard for the layman to know.

And meanwhile, at the very beginning of life, other members of this same wonderful and sometimes infinitely gentle profession of medicine deftly kill off the tiny, helpless thing that could someday have been old and dying and fearful, and which might also by the same token have enjoyed, for however long fortune and its fellow men permitted, a life of its *own* to protect and to savor. . .

What a curious age! In which the comforters and healers are also (and with equal legitimacy) the eliminators of life! And not for the sake of justice or mercy or national defense—but only to please a pregnant woman who does not want to bother with having a child. The absolute and legally licensed power of deciding who (or what) shall live is difficult to handle. It poses problems for women, for doctors, and even for Caesars. The women can perhaps go home and, with the help of a few tranquilizers, forget about it. But the temptation, for the other two groups at least, is to begin to think of people first as objects and then, perhaps inevitably, as subjects.

The legalization of abortion merely accentuates the fact that there is a problem in the modern medical profession which is not wholly unlike the problem of authority in every other field of life, including politics.

Given the pressure of business, the unending demands on time and energy, the unceasing round of new “cases,” individual patients sometimes cease, in and of themselves, to have any particular or enduring importance.

Indeed, unless the medical “difficulty” arouses some special interest, or the patient has some especially positive qualities of appearance or character (or notoriety), sooner or later many doctors find each new appointment nothing but one more in a vast accumulation of quite impersonal obligations. Technique substitutes for contact, professional mannerism for sympathy. The absolutely necessary callousness (one must *not* wince; one must coolly inflict the lesser pain

#### THE HUMAN LIFE REVIEW

to prevent the greater) can easily become a kind of illusory notion of superior power and rights. Arrogance is always tempting; even more so is contempt and the glib acquiescence of cynicism.

For better or worse, there are obviously plenty of doctors in America, now, for whom it is not at all difficult to provide a service (fetus-disposal) which is simply requested and paid for (rather than needed and medically justified). And the cast of mind which makes that possible—the ability to function merely as a hired technician providing skilled assistance to a disgruntled young female at the expense of a potential human life—is not all that much different, really, from what turned up time and time again during those supposedly “unforgettable” trials at Nuremberg.

There are *many* oddities about our easy acceptance of this sort of thing. One of the oddest, perhaps, is that all those energetic liberal guardians of our freedoms who are so vocal about the “threat to America” implicit in eavesdropping on criminals without their consent, or in searching them without first giving them time to dispose of the evidence, or in celebrating Christmas in the public schools because of the potential psychological damage to non-Christians—none of these people, somehow, see the slightest danger in assigning the medical profession the role of legal exterminator (with the corollary right to use the living tissue of the victims in the conduct of scientific “experiments”).

#### VIII.

In France, where sex has been viewed for centuries as a profitable commodity and a suitable basis for trade like any other species of property, we have already noted that the immediate reaction of great numbers of doctors and hospital directors to a new law legalizing abortions on demand during the first ten weeks of pregnancy was to *defy* it. Even the passionately pro-abortion Minister of Health (Mme. Simone Veil) has admitted that this widespread professional opposition to the new law is serious. “In a country where abortion has been considered a crime for decades,” she said, “it will take more than a couple of months for doctors to change their deep-rooted moral and intellectual hostility.”

And in West Germany, where there has been some fairly recent experience of the consequences of allowing the state to decide who is human and who shall be permitted to survive, a new “liberal” law permitting abortion on demand during the first twelve weeks of pregnancy was never even put into force. Instead, on 25 February 1975,

the German Supreme Court ruled that the law “transgressed the constitutional principles that everyone shall have the right to life and inviolability of person.”

How very curious, then, that in the United States there should have been almost no legal or medical objection to the judicial decision that abortions are not only permissible during the first “trimester” (as in the actions of the French and Western German legislatures) but are instead legitimate right up to the moment of “viability” (i.e., that one can kill the baby just so long as it is not yet capable of actually living outside of its mother’s womb).

It is plainly not a matter of religion (as pro-abortionists like to claim), since the French medical profession has long been notorious for its anti-clericalism. Nor can it be entirely a matter of “economic bias,” since the German Supreme Court is made up of elements whose views are, in many other matters, not all that far removed from the well-known “laissez faire” ideology of the American Medical Association.

What seems to be at work here is mainly a profound change in American ideas about the importance, or indeed even the *reality*, of a great deal of our own public and private experience. The legalization of abortion has to be seen in the context of a general movement of “liberation” and “de-criminalization” which extends across a whole range of things from marijuana to homosexuality to the abolition of statutes against obscenity on the grounds of interference with the right to freedom of expression. What all these things have in common is that they give some people pleasure. Which means, in our oddly unpragmatic society, that they have no real significance and for all practical purposes no real consequences.

Consider, for instance, that we are quite literally the first people since the Romans to make the elaborate and long-drawn-out commission of murder into a form of daily entertainment. American TV shows (popular nowadays with “the masses” all over the world) offer, on average, seven or eight killings in the course of a single night’s viewing. And at the movies (where there is ostensibly more “art” and consequently less need for restraint) popular offerings range all the way from the Clint Eastwood-Fred Williamson epics of pointless massacre through things like the “Godfather” pictures with their skilled portrayals of death and destruction as merely part of the normal operations of successful business enterprise. . .

All of which is perfectly all right and has no possible effect on anybody—because it is only pretending and not really real.

Consider too the fact that we are also, and quite complacently,

the first since the brutal and servile age of the Caesars to freely permit and license public displays of sexual intercourse and perversion; to create popular arts and a widespread "literature" out of what used to be called pornography; and to permit (or oblige) paid performers, as a regular part of their profession, to exhibit themselves naked and to engage in real or simulated acts of prostitution or personal degradation. All of which has no consequences, since it is only "entertainment" and "pretending."

Be that as it may, it provides at least a common background for the unexpected swarms of young Americans who are the main customers for abortion clinics. We are assured that they are all perfectly normal and "ordinary"—and indeed, they may be. But one thing is certain: most are members of a generation which has spent more than one fourth of its entire waking life (on average) watching television and movies, and almost half of the *rest* of its time listening to the thudding mechanical hysteria of "rock."

These are people who have been continually screamed at, from infancy on, to buy cereals and laxatives and analgesics and genital deodorants; they have been assured, day after day, of the sexual potency of everything from breakfast foods to perfumes to soft drinks to motorbikes; and above everything else they have been told to "let it all hang out" and then to "send away for quick relief." And in between the advertising they have been "amused" by the day-in-day-out celebration of violence, sensuality and greed, of graceless insolence, shameless exhibitionism and the continual reassertion of the fundamental imbecility of any sort of life save the self-indulgent or the criminal.

All of which has been perfectly harmless, of course. It has not been intended to "harden people up" (the way the Nazis tried to do with the S.S.) or to teach them anything. It has simply been a source of perfectly innocent pleasure (which is the meaning and essence of freedom). And no matter what any of it may have looked like (or felt like)—there is always the glorious reassurance (shared, oddly, by no other civilization in history) that none of it actually happened; that the injuries were not fatal, the wounds not real, the rapes and seductions had no consequences—and that not even the victims were "persons," but only illusions.

Still, for all our liberal confidence about these things, some of it does seem to rub off. On some people, anyhow. Even granted the extraordinary number of young Americans who seem to emerge quite safely from this rather peculiar "childhood," the fact remains that we seem to be producing an increasing number of young people

JOHN F. MATTHEWS

whose views of life and human nature and "reality" are based almost entirely on what they have seen on TV and at the movies.

One is not thinking merely of the strange children who beat old men to death with bricks—for fun. Or of the ones who drench women with gasoline, set them afire, and run away laughing. Or even of those hordes of dreadful adolescent girls who stream about the country in the company of jeering, long-haired louts in whom the monstrous fantasies of Charles Manson and other deranged (and highly publicized) cult heroes are only just this side of being translated into action. . .

No, one is thinking, rather, of that growing mass of presumably quite "normal" young people whose idea of freedom really does seem to mean (just as on television) imposing themselves on others without the slightest inhibition or restraint; whose idea of fame and success seems, just as in the movies, to be mainly the product of abandonment and self-indulgence; and whose idea of the consequences of sex is not babies but "emotional fulfillment" or "release" just the way it is in *Penthouse* or *Cosmopolitan*.

To such people (for whom self-gratification and "self-expression" seems to be the whole aim and end of life) what other people think or feel or care about becomes not only "irrelevant" but in some ways almost non-existent. It is simply an observable fact that, one way or another, our modern entertainment-oriented society is producing a considerable number of self-described "females" for whom vast areas of human experience are both unreal and totally alien. Unlike most women throughout human history, the stirring of new life in the wombs of these liberated adolescents does not fill them with wonder and joy—or with anything else, much, except a touch of revulsion.

They have no eagerness for motherhood; no curiosity to see what their blood will produce, no hope, no affection, no tenderness. Pregnancy does not soften them; the mystery of renewed life does not touch them; the promise of a child and of a living future only makes them resentful and angry, and eager to be rid of it. These are the people for whom "abortion on demand" has created a whole new medical industry. They do not have abortions because they are poor and have no way to feed a child. This is a Welfare Society and the so-called "economic argument" plainly has so little to do with it that in fact the very *poorest* women in America are statistically the ones most likely *never* to have an abortion.

No, it is not poverty that drives them. Nor, on the other hand, do they have abortions because nobody else will take the children off their hands for them. The number of couples who want to adopt

babies is, in America, apparently almost endless, and a healthy, freshly-born infant is almost certain of finding a home (the demand is so great that some lawyers and doctors have been able to operate a very profitable nationwide black market in babies).

What is important to notice is that more than anything else, they have abortions because *they do not want the child to live*. It is not just a question of not wanting to care for it; they do not want anybody *else* to give it a home or love or the right to life either. What they actively (and sometimes hysterically) want is to have it killed and gotten rid of.

But at the same time—and here we come to the nub of this long, somewhat parenthetical disquisition—it is apparently quite urgent (both for the girls, and for their defenders) that what happens should not be described (or even *thought* of) as a killing! Abortion may be commonplace and easy, but for all that it has to be treated as having happened to a “thing,” not to a baby, so that nobody will ever have to feel *remorse* about it.

Even the hard-eyed adolescents who want to get back to riding on motorcycles with the gang; even the tense, neurasthenic “sensitive types” who suddenly cannot stand the vapid, tolerant “boyfriends” they’ve been living with; even the man-devouring nymphomaniacs or the cold, ambitious young female “business-persons”—all seem to be alike in that each wants her child destroyed *before birth*, so that it does not have to concern her as anything “human.”

There is very good reason why, for such people, abortion is preferable to adoption. Not just the time involved—the extra few months required for the child to become “viable,”—but rather the utterly alarming possibility that if it were born it might be *seen*, it might become *real* (in which case somebody might not be able to keep from caring about it, and about what might happen to it).

This is, perhaps, why the word “fetus” has become so important. The press spells it as *fetus* (rather than *foetus*—to save a letter of typescript? or because nobody could otherwise pronounce it properly) but however it is printed, what is *meant* by it is at once as clear, and as completely mysterious as the doctrine of transubstantiation.

Up to a certain point, apparently, a fetus is not a baby but only a sort of “growth.” Thought of properly (that is to say, from the perspective of liberation and enlightened publishing) it is simply a medical term for a source of abdominal discomfort; something too ugly, unformed and gross to have even the remotest human significance. And of course, to destroy it has no human significance either, which is why abortion is like all those rather dreadful things that

happen every evening at the movies, in that nothing *real* gets hurt by it.

This is a doctrine of considerable importance not only to women who want abortions without any guilt-feelings, but also to doctors who wish to perform them without being charged, as they used to be, with committing murder.

Indeed, the whole case for the defense in the recent Edelin trial revolved around the question of whether or not the good doctor removed from the womb of its mother "the body of a well-developed, well-nourished black male child," or whether it was only an inanimate "thing."

Defense Attorney William P. Homans (who was no mere "hired gun," but an active and passionate pro-abortionist) made it perfectly clear that his justification for this (and any other) abortion was frankly based on rejecting what might be described the traditional or customary "meaning of words."

Addressing the jury in his widely quoted opening remarks, Mr. Homans said: "*We will show, we suggest to your satisfaction, that although the indictment refers to the killing of a 'baby boy' that in fact no 'baby boy' ever existed, and certainly no 'baby boy' was ever killed. . . . You heard in the indictment, and you heard [the prosecutor] refer to a person. We will demonstrate, we suggest, to your satisfaction, that no person ever existed and no person was ever killed.*"

As it happened, the jury was not at all persuaded by this argument. After days of hearing evidence, and after all the contradictory medical (and metaphysical) testimony was in, it decided that the "thing" was exactly what it looked like—a baby boy. And that simply calling it a "fetus" did not change the matter one whit. (But of course, as we have already indicated, finding Dr. Edelin guilty of manslaughter did not change *his* situation one whit, either.)

What is rather fascinating about all this is the way in which even the most ardently "scientific" proponents of abortion find it absolutely necessary to insist (for their own protection and reassurance, apparently) that customary usage and age-old language habits must be tossed aside as having no significance.

For a couple of thousand years, at least, quite intelligent people have always said of a pregnant woman that she is "with child." The reason for saying so was simply that it was obvious. Whatever may be the case in our own peculiar age, the ancient Greeks and Hebrews never had the slightest difficulty with the matter; there was simply nothing whatever to suggest that a woman in this condition was



carrying some sort of stone in her womb, which somehow and magically turned into an infant during the seventh month. They could, after all, see what they could see. The thing moved, it kicked, it acted very much alive. (And indeed, according to Dr. A. W. Liley of the University of Auckland, N.Z.—who is apparently the world's leading authority on the subject—there is good scientific evidence that the “fetus feels pain and moves to avoid it; that its heartbeat responds dramatically to outside sounds, which means it can hear; that it swallows, sucks its thumb, and does *before* birth some of the very same things it will continue to do afterward. . . .”)

For better or worse, it has always been perfectly obvious (and remains so) that from the moment menstruation ceases because of pregnancy, a new baby is on the way. Nothing whatever has changed about this; it cannot be altered, really, simply by changing the name. Because whatever one calls it, it will still go through various metamorphoses, both before birth and afterward, changing from infant to child, and from child to that derisive American phenomenon known as a “teen-ager,” and again, after that, with a little luck, changing yet again into something which is hopefully better and wiser and less self-centered.

None of this requires any great metaphysical speculation; most people have very little difficulty in grasping the process involved, and no reason whatever to make a great mystery out of the “point at which human life begins.”

Which is why, from a normal and realistic point of view, one of the vilest of crimes has always been thought to be the kind of assault on a pregnant woman which leads to miscarriage. Until a very few years ago, nobody in the entire course of Western history would have tried to suggest that what happens, in such circumstances, is that the victim “has emitted an incomplete fetus.” What we have always said—and meant—is that she has lost her baby. And with any sort of humanity at all, we weep for her.

Curiously enough, the Law also speaks English in these matters when it wants to.

In July of 1975, a man who shot a pregnant woman in the belly in New Jersey was held indictable for murder—because by some odd miracle the twin children in her womb seem to have been legally translated by the action of a bullet from “fetuses” (which could have quite innocently been aborted by a surgeon) into “persons” who were wrongfully slain. And in the same month the Massachusetts Supreme Judicial Court held, in a 4-3 opinion, that in the case of an automo-

JOHN F. MATTHEWS

bile-bus collision, "an unborn but viable fetus is a person under the state's wrongful death statute."

What makes the whole difference, apparently, is who does the killing. If it is done by a doctor, and the mother has *asked* for it to be done, then, *voila*, everything instantly changes and the fetus is an "object" again.

It is a greater miracle, a greater mystery than even the newly-invented concept of "viability."

After all, not even the most vigorously metaphysical pro-abortionist seems able to say exactly when (or how) the fetus is transformed by nature from a "thing" to a "person" by becoming "viable." But an unwilling mother, on the other hand, has the incredible power to *reverse* this mysterious process simply by saying that she wants the creature inside of her removed; and, *presto*, it turns from a baby into mere inanimate substance.

As noted earlier, the same doctor who will give her careful dietary and exercise advice about how to care for her "child" (so long as she wants it born, alive and healthy) is apparently instantly capable (once the word "abortion" is mentioned) of thinking of it from then on as a non-human "fetus" and scientifically disposing of it for her. It is all a matter of words. And as Humpty Dumpty said to Alice (in Wonderland), "it's a question of who shall be master!"

Just how far people can go in persuading themselves that "fetuses" have no human significance was perhaps best demonstrated on Monday, March 13, 1972, in an incident reported by the Boston Globe. During a high-school championship hockey game, "a two-to-three-month-old female fetus was hurled onto the Boston Garden ice" . . . during a demonstration following a goal by Arlington High School in which the playing surface was "showered with rolls and rolls of toilet paper, tennis balls, golf balls and other items." State Representative J. Cusack "said he was told the fetus" (found by men sent onto the ice to clean up the debris, and carried away to the Medical Examiner in an empty popcorn box) "was not a laboratory specimen, because it had no trace of preservatives."

*"I just couldn't believe we have such people in the world,"* said Rep. Cusack . . . *"but it happened in front of 14,500 people in the Boston Garden."*

It would take something very close to an idiot not to notice that there is a good deal of sick savagery loose in a world which lets this sort of thing happen at a game for schoolchildren (or anywhere else). And typically, for almost a week or so, there were reverberations of shock.

#### THE HUMAN LIFE REVIEW

It was discovered, for instance, that there was “*no law requiring a death certificate for a fetus less than 20 weeks old*”—and so the legislature was requested to pass one in order that “fetuses could not fall into the hands of degenerates or someone who could do a thing like this!”

In all the perfectly well-justified hullabaloo, one thing went unnoticed. Whoever (or whatever) the degenerate was who flung the remains of the little girl-child onto the ice—that person had precisely the same view of the “humanity of the fetus” as today’s medical profession, the law, and a good many unwilling mothers. It was simply a thing. It was not a person. It had no more importance or meaning than a roll of toilet tissue or a stale hamburger bun.

Only a small minority have abortions—or perform them. Still, it all adds up to something. In the United States, during the last two years, there have been well over two million. That is approximately one successful extermination every 30 seconds. Needless to say no memorials were raised, no services were held for any of these casualties in the newly popular war between the sexes. After all, they were only “fetuses,” and what happened to each of them was entirely a private matter between consenting adults.

A little *series* of private matters, actually. First, between the consenting woman and the man who made her pregnant. And then, somewhat later, between the same woman and a consenting physician who got rid of the result of the *first* little business in a thoroughly professional, businesslike (and legal) manner.

One is tempted to wonder, in this bicentennial year, what the framers of the Constitution would have made of all this.

## The Abortion Debate North of the Border

Ian A. Hunter

THE 1974 RECIPIENT of an international humanitarian award presented by an American humanist association was a Canadian physician. A source of Canadian pride? Hardly! Dr. Henry Morgentaler's singular contribution to humanity, by his own admission, has been to snuff out the nascent life of more than 5,000 unborn children.

Henry Morgentaler is a 53 year old Jewish doctor who survived the Nazi holocaust in Europe, including concentration camp, and emigrated to Canada in 1950. From 1967 to 1973 he operated a profitable suburban abortion clinic in Montreal which, for \$200 each, aborted on average more than a dozen women daily. Despite openly flouting the Criminal Code requirements for legal therapeutic abortions, Dr. Morgentaler's clinic was unmolested by law enforcement authorities and his grisly practice thrived.

Running his abortion clinic made Morgentaler wealthy, but not content. He is a man consumed with proselytizing zeal: an apostle of abortion whose self-conceived great Commission is to go into all the world to spread not the good news of everlasting life, but the techniques of induced death so that, lo, less shall be with us always. This message and mission, dear to the hearts of his zero population disciples, has not yet found favour with the Canadian legislature. Thus, when Morgentaler proudly announced at a Toronto public meeting in March, 1973 that he had performed more the 5,000 illegal abortions and followed this up in May by performing a "live" televised abortion (ironically on Mother's Day) for a nationwide viewing audience (a fair indication of the standards of ethics and good taste which animate Canadian broadcasting), police were shamed into action and criminal charges were soon laid.

The Morgentaler trial, his acquittal by jury and subsequent conviction by a divided Supreme Court of Canada has made *Regina v. Morgentaler* to Canadians in legal significance what *Roe v. Wade* is to Americans. Its sociological significance is scarcely less: the trial

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has refueled the fiery and embittered abortion debate which had already polarized the country into implacably opposed camps as has no other contemporary issue.

The Canadian abortion debate began in earnest in 1969. Abortion had been a criminal offense in Canada since the pre-Confederation *Offences Against The Person Act* of 1841. But 1967, Canada's centennial year, saw Pierre Elliot Trudeau as Canada's Justice Minister. The late Prime Minister Lester Pearson was soon to retire and Pierre Trudeau shrewdly promoted a sweeping package of criminal law "reforms," including liberalized abortion, at just the opportune moment to gain prominence and ensure that when the leadership mantle fell it alighted about his waiting shoulders.

It was the same Pierre Trudeau who popularized the phrase: "The State has no place in the bedrooms of the nation" in connection with a related amendment legalizing homosexuality between adults. This dictum, a jurisprudential absurdity since the State has an equal and legitimate concern with any activity which threatens those fundamental values upon which public acceptance of authority rests, soon became secular dogma, a genuine article of received Canadian truth. It also became a literal "Give me liberty and give them death" rallying cry of the militant Canadian pro-abortionist groups. To invoke the Trudeau dictum was, at least in the early days, to silence all apprehension about easier abortion, although to my knowledge no abortion mill has yet been found headquartered in the nation's bedrooms. Incidentally, the linking of the two issues, abortion and legalized homosexuality, along with other relatively innocuous matters like gambling and lotteries in a single omnibus Criminal Code amendment bill was, on Trudeau's part, cynically deliberate, as evidenced by his statement of December 20, 1967 to the *Calgary Herald*: "... the abortion amendments would have a better chance of passing if they were included in a bigger, diverse bill with its obvious advantages of psychological inertia."

So it proved, for in 1969 section 251 was added to the Criminal Code allowing therapeutic abortions if three physicians on a hospital committee were prepared to certify in writing that "... continuation of the pregnancy would or would be likely to endanger [a pregnant woman's] life or health. . ." The word "health" was left conveniently undefined and, given the inclination of those willing to sit on such committees, it is not surprising that many committees adopted the World Health Organization definition of "health:" "... a state of complete physical, mental, emotional and social well-being. . ."—a definition of such fathomless flexibility and absurdity that its literal

application would exclude from "health" every human being since time began with the possible exception, for Christians, of Christ Himself.

In 1970, the first full year of legalized abortion, pregnant women's life or health was apparently endangered in more than 11,000 instances. Despite modern medical advances by 1973 the figure had quadrupled. One must conclude either that there exists a reverse correlation between obstetrical progress and the risks of pregnancy, or that the law is being disregarded. Today abortion "on demand" is the reality in most metropolitan Canadian hospitals and the ostensible limitations are no more than legislative hypocrisy. In 1973, the last full year for which accurate statistics are available, more than 43,000 abortions were performed. And, if anything, Canadian figures are persistently understated since they exclude both abortions obtained abroad (principally in border states like Michigan and New York) and Dr. Morgentaler's not inconsiderable contribution to feticide.

The specific illegal abortion with which Morgentaler was charged was performed at his clinic on August 15, 1973 on a 26 year old unmarried student, his sixth "patient" that morning. At no time in the four-week trial did the defense deny the abortion nor did they contest its illegality under section 251. Rather, they relied upon section 45 of the Criminal Code—an ancient section sandwiched between sections dealing with ships' captains and treason, a section entirely unrelated to abortion, and not previously relied upon in a single reported Canadian criminal case. The section provides criminal immunity for anyone who performs "a surgical operation" for another's benefit so long as (a) the operation is performed ". . . with reasonable care and skill" and (b) if it was ". . . reasonable . . . having regard to all the circumstances of the case. . ." to perform it.

This ingenious defense deflected the jury's attention from the illegality of the abortion to the care and skill with which Morgentaler performed it. Obviously, it makes a mockery of the later detailed statutory prerequisites to a legal abortion, specifically application and approval in writing by a therapeutic abortion committee. Not a single lawyer of my acquaintance guessed that the trial judge would instruct the jury, as a matter of law, that section 45 could be a valid defense to a charge under section 251.

Mr. Justice Hugessen did. When the Crown Attorney objected that this rendered the legislative limitations meaningless and in fact introduced abortion on demand, Mr. Justice Hugessen retorted: ". . . it is asking too much that a parliament should always be consistent."

The jury acquitted. The Crown appealed. Five judges of the Que-

bec Court of Appeal unanimously held that the trial judge had misdirected the jury in law in allowing section 45 to be considered as a valid defense. A conviction was entered, and Morgentaler was sentenced to eighteen months imprisonment.

Morgentaler appealed. In a 6-3 decision, the Supreme Court of Canada upheld his conviction. This decision touched off a storm of protest about appellate courts overturning jury verdicts. Obscured by the rhetorical firestorm was the fact that had the case been returned for a new trial there was nothing whatsoever to go to the jury since Morgentaler's single defense had been held inapplicable by the highest court in the land. As Mr. Justice Dickson tersely wrote: "The plain fact is that the appellant made no attempt to bring himself within the bounds of legality in deciding to perform this abortion."

The pro-abortionist media attacked the Supreme Court decision with unprecedented ferocity, constantly referring to the majority judgement of "Mr. Justice Pigeon—*A French-Canadian Roman Catholic*". When I received the written judgement, I was intrigued to discover that the majority judgement was in fact written by Mr. Justice Dickson—*a Manitoba Protestant*. How stubbornly reality eludes the whims of the pro-abortionists!

Since Canada, unlike the United States, lacks a constitutionally entrenched Bill of Rights, the abortion issue must ultimately be resolved in the legislative not the judicial form. Given the sophistication of the U.S. Supreme Court reasons for judgement in *Roe v. Wade*, one must be grateful for such small mercies. The Morgentaler case has now prompted a departmental committee study preparatory to full parliamentary reconsideration. Some final legislative resolution of the transcendently important abortion issue is thus in sight. In retrospect the Morgentaler case will undoubtedly be remembered as the opening scene in the final act of the Canadian abortion drama.

# Abortion On Demand In France?

## A Five-Year Trial for the "Time Limit Solution"

Harold O. J. Brown

**A**T THE SAME time that West Germany's *Fristenlösung* ("time-limit solution," i.e. abortion on demand up to the twelfth week of pregnancy) was being reviewed by the Federal Constitutional Court, (which declared it unconstitutional in February, 1975<sup>1</sup>), France's *Assemblée Nationale* and Senate were passing a similar law. France has traditionally had more restrictive abortion legislation than Germany, and the new French law appears to differ significantly, in spirit and intent if not necessarily in effect, from the West German law. However, because Germany's highest court set aside the Bundestag's law, while its French counterpart subsequently found the new French laws compatible with the French constitution, at the present time France's abortion laws are more permissive than West Germany's.

Under the presidency of Georges Pompidou, Prime Minister Messmer's government introduced proposals for the relaxation of France's abortion laws, which dated from 1920. The Messmer government's proposals, returned to a study commission late in 1973, would have permitted abortion for certain medical, psychiatric, and criminal reasons. They were scheduled to be redebated in the spring session of 1974, but Pompidou's death on April 2 threw France into new presidential elections. Abortion was an issue, and each of the candidates took a position on it. Among the splinter candidates, two right-wingers (Royer and Le Pen) were categorically opposed to any relaxation, while the representatives of the radical left (Laguiller, Krivine, and Dumont) favored abolition of all restrictions. As might have been expected, the three candidates of the major parties were more moderate in their proposals. Chablan-Delmas (UDR, i.e. majority Gaullist, Pompidou's party) called the abortion question a "matter for the individual conscience" and seemed to favor greater relaxation of the restrictions on abortion than those proposed by Messmer's government in 1973. Mitterand, candidate of the Socialist-Communist common front, quite frankly called for abortion on demand during the first twelve weeks of pregnancy, to be paid for by

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#### THE HUMAN LIFE REVIEW

French social security (essentially the same law as that passed by the Socialist-Free Democratic ruling coalition in West Germany, mentioned above). Independent Republican (breakaway Gaullist) Valéry Giscard d'Estaing, the ultimate winner, proposed a four-fold approach: "respect life, assist women in physical danger, provide every woman with optimum conditions for keeping her child, and allow individuals and doctors freedom of conscience."<sup>2</sup> Giscard's attitude was apparently liberal but restrained; however, the appearance of restraint vanished after his election. He named Mme Simone Veil, already noted as an advocate of relaxation, Minister of Public Health, and on July 23, 1974, announced that he wanted Parliament to write a "liberal, non-repressive law." Significantly, he announced that he had instructed his government to cease prosecution of persons charged with violating the still-valid law of 1920. His prime minister, Chirac, introduced proposals corresponding to Giscard's wishes in November, going considerably beyond those referred back to commission the previous fall. In view of the power of the presidency under the constitution of the Fifth Republic, Giscard's vigorous if unexpected support for permissive abortion greatly facilitated the passage of the Chirac proposals, virtually unchanged, on December 20, 1974. They took effect January 17, 1975.

#### Characteristics of the New Law

The most salient feature of the new legislation, inspired by Giscard d'Estaing's desire to break with the conservatism of the first generation of Gaullists, is that it permits abortion on demand by a physician in a public or private hospital during the first ten weeks of pregnancy. The applicability of the law is presently limited to five years, after which it will expire and have to be renewed or rewritten. Interestingly, the vote for the new law was 284-189 with 17 abstentions in the Assemblée Nationale, 184-90 with 8 abstentions in the Senate, in both cases the issue being carried by the Socialist-Communist opposition voting *en bloc* with the government, under party discipline, while the majority of both government parties, Gaullists and Independent Republicans, voted against their party leadership (the government parties allowed delegates and senators to vote their conscience and did not invoke party discipline).

In addition to its provisional and tentative character, the new French law resembles the German Bundestag's liberalization of §218, in that it sets a time limit prior to which abortion is in effect available on demand, while its tone nevertheless stresses the concept of respect for life and suggests the undesirability of abortion despite its legalization.

HAROLD O. J. BROWN

It differs from the German legislation, indeed from all other permissive abortion legislation with which I am familiar, in the extent and intensity of the measures it provides to discourage and limit the resort to abortion even while permitting it. Under Title 1, Art. 1, it is stated:

The law guarantees the respect of every human being from the beginning of life. There shall be no infringement of this principle except in case of necessity and according to the conditions defined by the present law.<sup>3</sup>

In view of the fact that this new law represents a striking modification of existing legislation in favor of permissive abortion, one may wonder at the meaningfulness of the official stand taken in favor of respect for life; thus Messrs Gerbet and Foyer, on November 26, 1973, had attacked even the earlier, less liberal Messmer law's espousal of a position in favor of life as "une hypocrisie légale."<sup>4</sup> In spite of this criticism, it is worth noting that all parties to the discussion in France understand the fetus to be an "être humain," a human being, entitled to respect "from the beginning of life," and agree that this life clearly begins at conception, and that it is respect for this life to which there is, in "case of necessity," to be "porté atteinte" (injury brought) by the present law. This openness is particularly instructive in the light of the continuing assertion in American judicial and legislative circles that we do not know when life begins and that no moral or ethical question suitable for legislation is involved in the abortion decision.

**Specific Provisions**

Title I, after its initial testimony in favor of respect for life, suspends the application of Articles 1-4 of §317 of the Penal Code in the case of an abortion performed during the first ten weeks of pregnancy by a physician in an approved hospital. This is the greatest substantive change wrought by the new legislation. With respect to the conditions under which such a "voluntary interruption" of pregnancy is performed, the law amends L 162, 178, 181 and 647 of the Public Health Code. The general effect of these amendments is to discourage resort to the provisions of non-prosecution of §317, to present women with a variety of preferable alternatives to such resort, and also to restrict the development of abortion services as a specialized and lucrative business. It is to the apparently restrictive intent of these sections, Title II Art. 3-6, Title III Art. 7-16, that many of the more aggressive advocates of permissive abortion objected and continue to object. It is on them that the credibility of the government's claim to respect life rests, and it is on the vigor and effectiveness of

their application that the success of the government's avowed intent of reducing the total number of abortions in France, legal and illegal, will depend.

**Limitations on Resorting to Abortion**

In order to avoid the acrimonious debate concerning who is qualified to judge whether a woman's distress is sufficient to warrant recourse to an abortion, Title II, Art. 4 Section I makes the woman herself responsible for making the decision. While this procedure may not seem above criticism, it is tempered by further provisions intended to insure that the woman be as well-informed as possible concerning the reasons that could dissuade her from pressing her demand and that she be restrained from a hasty decision (Art. L 162-3ff.):

L 162-3. The physician approached by a woman seeking an abortion must:

1. Inform her of the medical risks she runs for herself and for her future pregnancies;<sup>5</sup>
2. Deliver to the woman concerned a dossier containing
  - (a) A list of the rights, assistance, and advantages guaranteed by the Family Law to mothers, unmarried or not, and to their children, as well as the possibilities offered by the adoption of a baby to be born;
  - (b) A list of the organizations referred to in Art. L 162-4.

L 162-4. A woman deeming herself to be placed in the situation meant in Art. L 162-1, after the application envisaged in Art. L 162-3, must consult an information, consultation, or family counseling service, a center for family planning or education, a social service or other approved organization which is to issue her an attestation of the consultation.

This consultation includes a private interview in the course of which aid and advice appropriate to the situation of the woman concerned will be provided for her, in addition to the necessary resources for resolving the social problems faced. . . . Wherever possible, the couple will participate in the decision to be taken.

L 162-5. If the woman, following the consultations provided in Art. L 162-3 and L 162-4, renews her request for a termination of pregnancy, the physician will request a written confirmation. He may accept this confirmation no sooner than one week after the woman's first request.

L 162-7. If the woman is an unmarried minor, the consent of one of the persons exercising parental authority, or—in the appropriate case—of the legal guardian is required.

If the conditions prescribed are in fact met, there seems little doubt that the impact of the French legislation would be to reduce the number of women persisting in demanding an abortion.

**How Many Illegal Abortions?**

According to the government and its supporters, there was a very high number of clandestine (illegal) abortions performed before liberalization: the annual rate was variously put between 300,000 and 1,000,000.<sup>6</sup> In view of the fact that the total number of abortions after legalization in the United States, with four times France's population, is put by H.E.W. at 900,000 in 1974, it seems very difficult to conceive that in France, where the great majority of physicians (73 per cent) are hostile to abortion, a figure of 1,000,000 or even 800,000 per year can have been accurate. Since the number of live births registered in France in 1973 was 860,000, while the number of spontaneous miscarriages was on the order of 140,000, this would mean that the total number of abortions equalled or exceeded the live births in France at a time when abortion was virtually totally banned. These figures were challenged from numerous quarters (one gynecologist pointed out that the total number of D & C procedures recorded per year varies between 250,000 and 300,000; since there are 140,000–150,000 miscarriages annually, this would mean between a maximum of 100,000 and 150,000 abortions annually).<sup>7</sup> Roland Pressat, Director of the National Institute of Demographic Studies (I.N.E.D.), proposed a ratio of 3 abortions to 10 live births, giving an annual rate of some 300,000, the most frequently voiced figure. M. Pressat explained that an extrapolation from figures obtained in Greek urban centers, where a rate of one abortion per live birth has been noted, led to the hypothesis of close to 1,000,000 abortions per year in France, which is a highly urbanized nation.<sup>8</sup> The high number of illicit abortions supposedly performed in the absence of permissive laws played a primary role in the arguments in favor of liberalization in France as it did elsewhere, including the United States. This wide fluctuation—estimates varying by as much as 230 per cent among the pro-abortionists, or by as much as 600 per cent from the conservative figures admitted by the anti-abortionists—casts great doubt on the reliability of such estimates. However, it did not materially reduce the impact such claims have had in securing acceptance of proposals for legalization. Another striking feature of these statistical estimates lies in the fact that the figures for legal abortions after liberalization in the United States do not attain the high level of those postulated for illicit operations prior to it. Nevertheless, experience with rapidly-declining adoption figures in the United States before and after legalization offers indisputable evidence that the proportion of unwanted pregnancies terminated by abortion has in fact increased greatly since legalization.

The only conclusion that can plausibly be drawn from these facts is that proponents of abortion in France as in other countries have consistently overestimated the number of illicit abortions performed under restrictive abortion laws. Nevertheless, the actual number in France as in the United States remains appreciable, by any reckoning although by no means as overwhelming as claimed.

#### The Arguments

The arguments of the pro-abortionists in France are familiar from the debates carried on elsewhere. However, among both advocates and opponents, the note resounds clearly from the outset—as indeed it did subsequently in the new law as finally enacted—namely, the awareness that abortion “constitutes the fact of killing a future human in the course of development.” The expert witnesses were generally hostile to abortion. As Prof. Robert Debré of the Academy of Medicine stated:

Nous venons de dire que l'avortement constitue le fait de tuer un futur homme en voie de développement. Il n'y a pas lieu de savoir à quelle phase du développement il est permis ou non de tuer. Nous sommes loin du Moyen Age, où l'on se demandait à quel moment l'embryon avait une âme, où l'on pensait que c'était à quarante jours pour les garçons et à quatre-vingts jours pour les filles. . . Nous savons que la continuité du développement est absolue depuis la cellule initiale jusqu'à l'être formé. . . Toutefois, la croissance de cet être dans l'organisme de la mère et aux dépens de celui-ci peut causer des troubles qui mettent celle-ci en état de légitime défense.<sup>9</sup>

Professor Debré concluded his testimony on an ambivalent note, calling for a law “not of penalty and punishment, but of social protection.”<sup>10</sup> Prof. Jérôme Lejeune, internationally-famous geneticist, expressed his view that a permissive abortion law confers on modern women the power of the ancient Roman *paterfamilias* to eliminate his own children, and called for greater clarity on the nature of life and of man, and on the beginning of life.<sup>11</sup>

Prof. Alexandre Minkowski, Director of the Center of Neonatal Biological Research, expressed a sentiment of revulsion towards abortion, but stated that he no longer considered it abnormal. As it is, in his view, most frequently a substitute for contraception, contraception must be dealt with before abortion.<sup>12</sup>

Rather like the specialists in biology, the physicians stressed the ethical tradition of respect for life from conception onward, coupled with a willingness to accept a broader definition of medical indications, but with respect to social problems, Professor Lortat-Jacob,

HAROLD O. J. BROWN

spokesman for the *Conseil national de l'ordre des médecins*, argued that it is "more urgent to advance social legislation and provide resources for mothers in distress than to condemn an embryo to death."<sup>13</sup> Summing up his position, Prof. Lortat-Jacob stated:

- 1) Abortion is not a medical act;
- 2) Every law that leaves a large margin of individual liberty to the doctor, in the matter of abortion, will be of such a nature as to cause deterioration of medical ethics and ruin the confidence that the sick seek in their physician;
- 3) Physicians claim so-called therapeutic abortions, with the broadening of the last three years, as their responsibility;
- 4) The Order does not intend that doctors should have a determining responsibility in the matter of decision if the legislator intends to authorize so-called "social" [reasons for] abortions. For this reason the pretext of a threat to mental health must not be used to disguise social indications."<sup>14</sup>

Representing the three major French medical societies, Dr. Monier of the C.S.M.F. (Confédération des Syndicats Médicaux Français) spoke of an increasing acceptance of abortion among younger doctors and those in both major urban centers and in rural areas, although 73 per cent remain opposed to abortion on demand. For the F.M.F. (Fédération des Médecins de France), Dr. Coicaut underlined the difficulty for doctors in assuming the role of judges. The F.C.S.S.M.D.P. (Fédération des Chambres Syndicales et des Syndicats Médicaux du District Parisien), represented by Dr. Wisner, stressed the tortured conscience of physicians acceding to a request for an abortion: "If they admit that an abortion may take place, this must remain an exception, for they are there to try to preserve life."<sup>15</sup> The general opinion of the French medical profession thus seems to have been that abortion is always a highly undesirable procedure, acceptable only as a last resort—although under a greater variety of circumstances than the modified 1920 law permitted—and that responsibility for the decision should not be placed with the doctor.

#### The Courts

The spokesmen for the magistracy (judiciary), Maître Jean-Pierre Michel, returned to the controverted figure of 800,000 illegal abortions per year as an indication of the chaos occasioned by the existing laws. The *Union Fédérale des Magistrats* objected to asking judges to pass officially on acts which many of them disapprove because of their conscience as human beings. M. Clavel, Vice-President of the Superior Court of Clermont-Ferrand, argued that abortion on de-

## THE HUMAN LIFE REVIEW

mand, financed by the state, would be unconstitutional in three ways: (1) by forcing citizens to pay for acts contrary to their conscience; (2) by denying to the father equal rights with the expectant mother; (3) by failing to honor the U.N. Declaration of Nov. 20, 1959, which—according to Article 55 of the French Constitution—has authority in France superior to that of French law. In general, the spokesman for the magistrates wanted no part of making or approving abortion decisions, while recognizing the problems inherent in what was then the existing situation.

### The Demographic Perspective

Because France has already had a bad experience with the social impact of a declining birthrate before World War II, several demographic panels considered the possible effects of legalization of abortions. There was general agreement that *anything* leading to a further decline in the French reproductive rate is undesirable and in the long run could be disastrous. For this reason, the advocates of legalization stressed their expectation that the effect of their proposals would be to reduce rather than augment the number of abortions. There was little confidence, however, that strict anti-abortion legislation could be of determinative importance, although it would not be without influence. Professor Sauvy of the College de France summed up the experience of the socialist countries with liberal abortion laws: "They have concluded that the liberalization of abortion, an absolute weapon, led to too weak a reproductive rate."<sup>16</sup>

### The Religious Opinions

The opinions of the major religions, Roman Catholic, Protestant, and Jewish, were uniformly hostile to abortion. Prof. Roger Mehl, dean of the Faculty of Theology at Strasbourg (Protestant), the most "flexible," opposed abortion except in limited cases, but would at least consider social indications. Grand Rabbi Guggenheim, by contrast, stated: "For a faithful Jew, social or economic indications may never be considered." He went on to argue, however, that certain severe personal economic problems might actually be considered the equivalent of health problems.<sup>17</sup>

### Conclusions

In view of the general opposition to permissive abortion laws on the part of French scientists, physicians, magistrates, and religious leaders, it may be puzzling that the advocacy of certain women's groups and branches of the labor movement carried the day. In effect,

the victory of the pro-abortionists was created by the political decision of the Socialists and Communists to impose party discipline and to require their deputies and senators to vote unanimously for liberalization. It is not altogether clear what the actual reasons for this decision were, since the Communists, at least, have the rather negative experience of their sister parties in Eastern Europe with permissive abortions on which to draw. No doubt the willingness of many who personally oppose abortion on ethical grounds to accept liberalization on a five-year trial basis was motivated by the awareness of the problems, inconsistencies, and abuses of the existing situation, especially when magnified to create the impression of 800,000–1,000,000 illegal abortions in France per year.

The law was passed over vigorous opposition, and then only by virtue of including a provision limiting its effectiveness to five years, as well as others intended to reduce the number of women having recourse to abortion, and finally because of the requirement for a careful supervision of the social and demographic effect of the new law. Finally, the abhorrence of both doctors and judges for the responsibility of making the decision to eliminate a developing human life is reflected in the fact that the abortion decision is ultimately left entirely to the woman, with the requirement that she be well-informed and that attempts to dissuade her be made by her physician as well as by a social service agency.

The French solution, like the attempted German one, differs from the American in that it was made by legislators, not judges, and hence is more complex and takes greater account both of ethical issues and also of particular human predicaments. It clearly recognizes the developing child as a human being whose life has already begun. It states that this life may be terminated, in principle at least, only when it can plausibly be argued that it occasions unbearable distress for the mother. Like the Bundestag, the French government allows the woman to be sole judge of the seriousness of her "distress" and thus to have "abortion on demand" prior to a certain limit—in this case ten weeks—and unlike the Bundestag, it prescribes measures that, if applied, would necessarily have the effect of discouraging and limiting the resort to abortion. From the perspective of one who views the right of the unborn to life as a fundamental right, the law of 1975 is unsatisfactory, but it at least has the merit of recognizing unborn life as human life and intending, according to its text, to limit by effective persuasion the widespread destruction of such life that hitherto existed outside the law.



## THE HUMAN LIFE REVIEW

### NOTES

1. See *Human Life Review* I:3, Summer, 1975, pp. 60-85.
2. Bernard Pingaud, ed., *L'Avortement. Histoire d'un débat* (Paris: Flammarion, 1975), p. 165.
3. Revision of §317 of the Penal Code and of Book II, Ch. III, Art. L 162 of the Public Health Code, cited in Pingaud, *L'Avortement*, pp. 284-288.
4. *Ibid.*, p. 185.
5. Cf. Stanislaw Lembrych, M.D. "The Course of Pregnancy, Birth and Lying-in after the Artificial Termination of the First Pregnancy," in: *Human Life Review*, I:3, Summer, 1975, pp. 90-93.
6. Pingaud, *L'Avortement*, pp. 63-64.
7. *Ibid.*, pp. 132-133.
8. *Ibid.*, pp. 74-75.
9. "We have just said that abortion constitutes the fact of killing a future human in the course of development. There can be no question of knowing at which phase of development it is or is not permitted to kill. We are far from the Middle Ages, when one asked oneself the moment when the embryo had a soul, where it was thought to be forty days for boys and eighty for girls. . . . We know that there is an absolute continuity of development from the first cell to the formed being. . . . Nevertheless, the growth of this being in the mother's organism and at its expense may occasion difficulties that place her in a state of legitimate self-defense." Cited in Pingaud, *L'Avortement*, p. 49.
10. *Ibid.*, p. 50.
11. *Ibid.*
12. *Ibid.*, p. 53.
13. *Ibid.*, p. 57.
14. *Ibid.*, p. 58.
15. *Ibid.*, pp. 60-62.
16. *Ibid.*, p. 79.
17. *Ibid.*, pp. 82-85.

## Medical Ethics Skewed by the Abortion Issue

Paul Ramsey

A NUMBER OF the established criteria of research ethics are skewed when abortion is brought into the center of discussions of the morality of fetal research. It is now possible to illustrate this point and give evidence for it, first by reference to a published case study of a fetal research protocol.<sup>1</sup>

The objective in the research was the development of an artificial placenta that would “permit the salvaging of previable or marginally-viable fetuses in the 300 to 1200 gram range.” That weight range encompasses many a clearly viable fetus. This must have been a fictional case. Yet there is a wide variability in the gram-weight below which hospitals do not try to salvage newborns. The grave moral issue raised by the lack of approximate agreement in the practice of medicine—entailing that whether a baby will be “given” life depends on the hospital the mother entered—cannot be discussed here.

In the construed case of research, the technique involved cannulating the internal iliac vessels offering total perfusion of the infant. It was anticipated that maintenance of vital signs in the fetal subject would at first be for no more than minutes or hours. Still it was hoped that survival time would increase gradually as the technique was perfected.

So far, so good. But then, we are told, the research team agreed that, until the placenta was a proven lifesaving measure, no fetus would be maintained for more than two weeks because of possible damage to it from the procedure itself. That, I suppose, was a good reason for stopping the experiment. But with that in view, with serious damage to whole living fetuses envisaged, indeed written into the protocol, what were the sufficient justifications for beginning the experiment?

Robert S. Morison of Cornell University, in the discussion of this

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case, defends the ethics of it. He believes that further threat to the fetus from the procedure is "trivial in comparison" with "a prior finding"—in an abortion decision—"that the right to life of the fetus was outweighed by other considerations." With that, incidentally, Dr. André Hellegers—although he was commenting on fetal research in situ—seemed to agree, when he remarked, "I don't understand why you would want to protect the fetus prior to an abortion. It strikes me as illogical to say you may administer saline, but you may not administer thalidomide or drug X690" to test its damage to the fetus.<sup>2</sup>

Is it possible, however, to separate the morality of abortion from the morality of fetal research? Can we prescind from Morison's approval of abortion and Hellegers' opposition to it? This might be done in the present case by supposing that the research was to be done only on spontaneously aborted fetuses and on justifiably aborted fetuses—those abortions Hellegers or anyone else would say were just and necessary.

But then, on this supposition, the distinction between nontherapeutic and remotely possible therapeutic investigations on live abortuses returns with a vengeance to control all sound ethical reasoning on this subject. The cruciality of this distinction is disclosed by the contradiction—the dilemma—that lies at the heart of attempts to justify nonbeneficial research on still living abortuses. One must agree with the odd conclusion of Dr. Morison that "a new and serious problem" will arise as and to the degree that experiments on the aborted for the sake of other unborns or infants "approach success":

It would clearly be unethical to employ extraordinary means actually to bring into the world of the living an infant whose parents had already rejected it. In other words, as soon as the experiments give promise of imminent success, they should be limited to those spontaneously aborted fetuses that the parents wish to bring to maturity.

That says in so many words that the more certain we are that benefits will accrue *only* to society or to other fetuses and the more the still-living abortus alone will be damaged or suffer pain or injury, the more we should approve the research; that the closer socially beneficial experimentation comes to bestowing some benefit also on the research subject, the more it deserves moral condemnation. That reverses the ordinary canons of medical ethics.

Morison seems to believe that a fetus has no claims on medical practice if its parents have already rejected it. A prior abortion decision has replaced the ordinary canons of research ethics. Parents'

wishes make abortion moral; they also determine that *the research* is moral, provided the experimenters stay within the range of the woman's sovereign decision. Dr. Kurt Hirschhorn said that if it is not possible to make this fetus into a child, we therefore can consider it as nothing more than a piece of tissue. I think it fair to observe that Dr. Morison says, in effect, that since we cannot make this fetus into a wanted child, we therefore can consider it as nothing more than a piece of tissue. The experiment in question might make this fetus into a child. The protocol forbanded that "danger" because of damage to that possible child. Dr. Morison wants primarily to avoid making an unwanted fetal human being into an unwanted child. So for him it would be morally outrageous for one of these experiments to succeed or to approach success—threatening "to bring into the world of the living an infant" whose value has not been derived from someone's evaluation of or interest in it. By contrast, as we shall see, the original NIH [National Institute of Health] policy proposal affirms that "the decision of the Supreme Court on abortion does not eliminate the ethical issues involved in research on the nonviable human fetus."

What, then, is left in the foregoing case if we strip from it the permissiveness illicitly supposed to flow from someone's elective abortion decision or from the legalities? Suppose the experiments were to be done only on whole still-living fetuses resulting from spontaneous abortions (or from "just and necessary" abortions). The abortuses would, then, be condemned by no human intervention (or by an entirely justifiable one); yet they would still be entitatively alive in important and relevant ways, or else the research would be pointless. What then?

I suggest that the paradox at the heart of abortus research would still remain. This would be unconsented, irrelevant research on the dying (unless for the purpose of saving them). It would still be research on the, tragically, "condemned." It would be seizing the "golden opportunity" helplessly afforded by those about to die for the sake of those who may yet live. We would be thrown back upon the clear provisions of the protocol in this case, which warned of the danger that possibly seriously injurious "nonbeneficial" research might become "successful" too soon. Without waiting for any parents' wishes to bring fetuses to maturity and without excuse from anybody's rejection of them, the provision must be (if the dying are to be *used* for the living) that, at least "during the critical period of transfer of the fetus to the artificial placenta, no fetus . . . be maintained for more than a two-week period because of possible damage" to the human research subject from the procedure itself. Disposal

must be arranged in advance. As Sumner B. Twiss, Jr., wrote in the discussion of this case, it would "appear that the researchers are trying to rectify one moral wrong by performing another."

I see no way to remove the ethical contradiction from the heart of that research on whole, still living fetuses: the closer such experiments come to being lifesaving or beneficial to the subject, the clearer it becomes that the use of still-living fetuses who could not possibly benefit and who might even be harmed by the trial was wrong in the first place. Only possibly beneficial experiments on the still living can without an understanding consent be justified, or at least no experiments whose risks of injury are not negligible and/or those whose objective is to promote the survival of the subject. The proposal is to do damaging or highly risky experiments upon the dying, i.e. the still-living nonviable fetus, precisely in order to make rapid medical progress. *Incidentally*, abortion makes these dying available. No one's views on the morality of abortion alters or can remove the offensiveness of such research practiced on the dying. The prohibition would hold even if all abortions were morally justified.

The ordinary canons of medical ethics are also put in disarray by ascribing cruciality to abortion in prospect. This can be seen from an examination of an article by Dr. Willard Gaylin and Dr. Marc Lappé, entitled "Fetal Politics."<sup>3</sup> The framestory of that article is a two-part moral argument. The first element is legal positivism. The second element is a very odd line of reasoning I can only call the "slip-back-up-the-moral-slope" argument, or a "one-wrong-justifies-a-lesser-wrong" argument.

By legal positivism I mean, of course, the Supreme Court's abortion decision. That is a *fact*. The widespread practice of medically unnecessary abortion is also a *fact*, made legal by the factual sway of that legal decision. From no legal "is" can a moral "ought" be drawn—either in medical or in general ethics. The superiority of the original NIH guidelines, we shall see, is most clearly evident because the drafters proceeded to reason *ethically* about fetal research and the needed guidelines, the Supreme Court notwithstanding. The inferiority of its subsequent revision is clear from its crucial introduction of legal positivism and the facticity of abortion. To say this is *not* to say the Court's decision was morally wrong. It is only to say that from the fact of it—or even from the *legal* rightness of it—no conclusion follows for morality or for the ethical practice of medicine.

Gaylin and Lappé do not so conclude. Legal positivism works to produce a line of moral reasoning only in combination with the second ingredient in their argument. They write:

PAUL RAMSEY

Affording the fetus the same protection as the child (both innocent and non-consenting subjects) seems ludicrous in the light of prevailing public acceptance and government approval of abortion. In abortion we more or less readily condone procedures which subject the fetus to dismemberment, salt-induced osmotic shock, or surgical extirpation; certainly no conceivable experiment would do the same. Yet wholesale acceptance of the procedures of abortion and rejection of those of experimentation is precisely the current moral stance of the federal government. Mere consistency would seem to demand that society cannot condone abortion procedures which must subject the live fetus to unimaginable acts of violence, and then balk at giving a mother an aspirin prior to those procedures in order to determine if the drug crosses placenta—with hopes, thereby, that the knowledge will prevent damage to future wanted babies.

Now, why is that passage persuasive while at the same time in sound moral logic it is unconvincing? Everything depends on whether the second element in this two-part argument has any reasonable weight as an ethical argument. These writers' justification of the morality of fetal research (given the positive legality of abortion) entirely depends not on "mere consistency" but on whether it is correct in ethical reasoning to argue that one wrong justifies another (in the special form that one wrong justifies a lesser one).

In oral discussion of this issue, one of these authors (Gaylin) put the point as follows (stressing that he was choosing his words carefully): Since *we have given ourselves the right* to medically unnecessary abortion [given ourselves the right to do to the fetus those "unimaginable acts of violence" to which the above passage vividly refers], then *we have given ourselves the right* to place the fetus at risk of lesser injury. That is why we "cannot" now "balk."

The aspirin begs the question, since one might justify such research because comparatively benign on wanted unborns or with children. In any case, that example goes in the direction of justifying fetal research by means of refined distinctions concerning the benignity of the procedure, not by crucial reference to the abortion in prospect. A justification of fetal research requires concentration elsewhere than on abortion in prospect or than on the mere legality of abortion.

Gaylin did not say: Since current abortion-practice is *right*, so also is potentially harmful fetal research in anticipation of abortion. He did not say only that since abortion is *legal* in positive law, so also fetal research should be legal; nor at this point did he expressly appeal to legal positivism alone, to say that both could be right because legal. Instead he appealed to realities behind the law which the present law on abortion covers. We have by law given ourselves the right to do these background unimaginable acts of violence in abortion pro-

cedures; we then can legitimately claim the right to do lesser possible harm for the sake of other wanted babies. If that contention has any force at all, the argument more than borders on saying: Since we have given ourselves the right to do wrong, we have given ourselves the right to do other, lesser wrongs. That has to be the force of language carefully chosen to set aside those more superficial appeals to the mere facticity of abortion practice or solely to legal positivism. This is what skews the ordinary canon of medical ethics: do no harm.

But the foregoing puts moral reasoning into disarray. One harm cannot justify another, nor two wrongs make a right—even if the second harm or wrong is less than the first. Here we have the oddity of a “slip-back-up-the-moral-slope” argument. The mere consistency invoked is actually to use one sort of harmfulness to move on to another that is now procedurally permitted or opened by the first.

That ingredient in the two-part “argument” won’t work. And since the appeal to legal positivism won’t work either as a moral argument, the passage and article in which these appeals are intertwined—each needing the failed support of the other—won’t work as moral argument. It amounts to an exercise in persuasion. Two bad arguments do not make a correct one.

Here a religious commentary brings to light the pervasive sense of collective guilt concerning our current abortion practice. This helps us to understand one important element in the persuasiveness of this sort of argumentation. Collectively guilt-laden, we go on (like the Dostoevsky’s character Stavrogin in *The Possessed*) to other potential harms and wrongs in order to avoid acknowledging the first (with the small but significant difference that Stavrogin was impelled to go on to more heinous wrongs, he determined his personality to plunge down the moral slope, while we propose to move back up it). We are determined to wrest by our scientific works some good out of guilt-laden harmfulness to unborn life.

In their discussion of “the good case” to be made for fetal research, Gaylin and Lappé use the salvic language we should learn to expect in these matters. Experimentation, they write, can “ennoble” the death of the doomed fetus if it is utilized “to serve its more fortunate fellows.” That “ennoblement,” they say, brings fetal research “closest to the therapeutic model.” Gaylin and Lappé write that “at worst fetal research degrades abortion by making it a vehicle for ends of no relevance to the specific life it takes; at best, however, it endows the process of abortion with human values it will not otherwise have.” That is what they mean in condoning fetal research that is “close to the therapeutic model,” i.e. in the service of fellow fetuses. I say that

PAUL RAMSEY

is close to a “salvation model.” But then for us moderns therapy *is* salvation.

More important to say in rejoinder, the doomed fetus is in need of no substitute therapy, no substitute human values, no need of salvation, ennoblement, or redemption. It is rather we who do not save it from needless doom, and we alone, who are searching for some therapy for our collective souls, some ennoblement, some source of solace from, nonspecific, guilt. It is “the process of abortion” and the individual and collective agents of it, who desperately need to be endowed with human values we and abortion will not otherwise have.

I do not mean to impute my memory of Gaylin’s oral statement of his position to Gaylin and Lappé as joint authors. We need therefore to return to the article on “Fetal Politics” to find, if possible, verification of the foregoing analysis. Place side by side with the appeal in the [Gaylin-Lappé] passage quoted above, the following passage that makes the same point or appeal:

There is an element of the irrational about [current efforts to ban fetal research] that perplexes many of us. Does it not seem hypocritical for a country like the United States which has neglected the nutritional and hygienic requisites for healthy wanted pregnancies to the point that it ranks fourteenth in infant mortality to be so concerned about potential damage to never-to-be-born fetuses. How is it that a Congress that moves so slowly in major areas of health concern, that has turned its back for the fourth time in a row on its simple obligation to protect the public from the poisons introduced into its environment and food by over-zealous commercial interests, has had the temerity to leap into this nettle of unresolved dilemmas?

Into the nettle it jumped, given the vacuum in medical ethics and regulation. Surely, however, as a *formal* matter, Congress can be right one time and not in many other of its actions and inactions—whether it was or was not wrong or precipitous in this instance. Many wrongs do not make right right or wrong wrong, even as two harms do not add up to an ethical justification. I have heretofore found such persuasive appeals more common among religious than among scientific authors.

The important thing, however, is to ask whether the appeals—let us no longer call them moral arguments—made by these two passages are not identical. Because child neglect is so wrong, it is ludicrous to “balk” at fetal research: that is the “argument.” In the one case, it is the terrible harmfulness of nutritional and other neglects and inaction that seems glaringly inconsistent with concern to protect the fetal human research subject. In the other case, it is the unimaginable acts



of extirpation of the fetus that make that concern seem ludicrous to these authors.

That is all well and good if the point was to use persuasive rhetoric to get leverage to “change the system” or to correct the woeful harms cited. Such, however, was not the point of the argument. The point was rather to argue from the ghastly damage in infants allowed and the extirpation done to fetuses in our society to a moral justification of potentially harmful fetal research. The formal ethical argument is in each case the same; and it is fatally flawed.

I am inclined to agree with these authors that an unskewed medical ethics would lead rather to the requirement that choice of the method of abortion be not made by simply balancing considerations that affect morbidity to the mother alone. That should also include a requirement that the fetus not be subjected to prolonged and unduly stressful injury, as is now the case with salt-poisoning induced by saline abortions. Perhaps it is too much to expect today that there be awakened in public and in medical conscience a strong concern over the comparative humaneness of abortion procedures. To say the least, however, an unskewed medical ethics does not lead in the direction of *adding* deliberately induced harmfulness to the fetus—on the excuse that it is “part” of the abortion procedure (as in DHEW-NIH revised guidelines).

Gaylin and Lappé’s framework moral argument—and it is intended to be such—is repeated at the end of the article. Since we know anyway that we are going to destroy, dismember, and discard the fetus in a procedure known as abortion it seems a “small indignity” to expose it to rubella vaccine just prior of that termination. Here again, one indignity justifies another, provided only that the former is the larger one. In the experiment in question, physicians needed to know whether rubella vaccine will harm the fetus if unknowingly pregnant women are vaccinated. There was no other “safe” way to get that information except by trying it on women in anticipation of abortion. But of course, if the ordinary canons of medical ethics had not already been skewed by ascribing cruciality to abortion in prospect, and if “do no harm” controlled the manner in which the vaccine was brought into use, a way could have been found to do no harm either way. Surely, in the period of the vaccine’s introduction to the adult population of women, that concern and medicine’s concern to do no harm would indicate a brief period of refraining from sexual intercourse to avoid vaccination while pregnant. As Gaylin and Lappé point out in their discussion of this case, we now largely avoid the dilemma by vaccinating preadolescent girls or the population of

grade-schoolers instead of women of childbearing age exposed to danger of pregnancy (if that is a proper manner of speaking). So we did not need to “ennoble” the death of doomed fetuses. There were alternative ways of saving other more fortunate fetuses without obtaining that information by possibly harming and using the condemned.

A final case-oriented statement of the argument we are examining has to do with the destruction of a normal male fetus (whose sex only can be determined by amniocentesis) 50 percent of the time rather than the male fetus afflicted with hemophilia in order to prevent one child suffering from that disease. Gaylin and Lappé write:

We find ourselves therefore in this peculiar position. The destruction of one or two normal fetuses to protect against one abnormal fetus under current law in the United States is not legally objectionable. We allow and sometimes encourage such a practice in the case of a male fetus at risk for hemophilia. Here, an abortion of the normal male (usually undistinguishable from its affected brother) is sanctioned to ensure that half the time a hemophilic male is eliminated. Yet to do research on a *fetus that is about to be destroyed* which might save both infants, if we accept the current status quo, is morally objectionable.

Now, I submit that the appeal to the destruction of a normal male fetus, in order to ensure that half the time an afflicted hemophilic male is prevented from being born to a life of suffering, gathers strength because it appeals to our *sense of injustice*. To do that is rather like operating on the wrong patient, and defending that tragic mistake by saying that for the right patient the operation would have been a success. These authors need to accept the current moral status quo and hold that unalterable, with the sense of injustice it awakens, in order to use it as a launching pad to the conclusion that at worst fetal research is a lesser evil.

They summarize: “The medical ethics ‘do no harm’ would, of course, be violated [by fetal research]—but we have already violated that principle when we accept the concept of abortion. The ultimate harm of destroying the fetus trivializes that which precedes it.” Perhaps, indeed, it is true that current abortion practice is in grave violation of that cardinal medical ethical principle. That is not the issue here. In considering the morality of fetal research, however, it is precisely the wrongfulness and harmfulness of abortion that has to be held as a premise in this attempt to reach a justification of the lesser harm or wrong that may be entailed in experimentation on fetuses when abortion is in prospect. The contention has no force unless abortion truly is an “unimaginable act of violence” (as, for

example, tissue research is not). In turn, my reply has been that, even so, the ethical "argument" won't work because an established harm possesses no tendency to justify later harm, two wrongs do not make a right, a greater wrong does not help to justify a lesser one. This is a formal matter that remains true in the logic of moral discourse whether abortion is right or wrong, and whether fetal research can otherwise be justified or not. There may be valid arguments for the morality of experimentation on fetuses, but this one is not.

When Gaylin and Lappé introduce their "good case" of a sort of fetal research they believe to be most readily warrantable, they set out to establish a minimum case. They want to allow that some fetal research is unnecessary and perhaps immoral. They do not even undertake to describe the entire range of research that seems likely to be morally acceptable to a reasonable majority of people.

On closer scrutiny, however, the claim that theirs is a minimalist case is exceedingly weak if not entirely nugatory. For the governing stipulation is that fetal research be devoted to progress in the future medical care of the doomed fetus' more fortunate siblings. Indeed, the point at which it becomes unethical not to do fetal experimentation is reached "when the research has as its objective the saving of the lives (or the reduction of defects) of *other* wanted fetuses."

Now, is that limitation minimalist or maximalist? It seems minimalist, in that fetuses are not to be coopted for the conquest of mankind's general ills but only for those afflicting other prenatal or newborn lives. Yet in terms of the "argument" we have reviewed, within that extrinsic limitation there is a qualitatively "maximalist case" that would be justified. If abortion in prospect is deemed to be crucial in the moral argument for fetal research, then such experimentation need entail no "small indignity" to the doomed fetus, but only one *smaller* than "extirpation" and "unimaginable acts of violence." So in principle and in the logic of the moral argument, *anything* done that might yield knowledge fruitful for other wanted fetuses here finds justification in principle and not only small indignities, some risks, unexpected injury, etc. To push the maximalism entailed in their line of reasoning, I know, would be to ignore the moral sensibilities of both these authors. But then I simply must say that they are better men than their arguments.

The fact is that we have here a replication of the standard "solution" routinely proposed by contemporary American researchers. Experimentation with children (having no bearing on their treatment) is said to be justified if limited to research on uniquely pediatric diseases; and now experimentation with the fetus is deemed

not only necessary but right if limited to the study of uniquely fetal or neonatal diseases. That limitation, which is almost automatically forthcoming from the medical profession, is, I am inclined to think, a fig leaf that covers the unseemly parts of a compromise ethics—a compromise between benefits-to-come and “doing no harm.”

I may be wrong in that judgment. Significant to note, however, is that such a limitation upon morally permissible research is for other reasons held minimalist in the case of research using children, because the child might be injured and still live; while in the case of fetuses the very same limitation knows no bounds if abortion in prospect is taken to be crucial. The upshot of that would be to say *in principle* that no indignity, no injury, no harm that may be believed useful to other less fortunate fetuses need be morally prohibited. That puts us back [to the] proposal for research on the capitally condemned. They may be pushed to the brink of anything short of experimental execution. And that I judge to be “irrational,” “ridiculous,” “ludicrous,” or, better said, morally outrageous.

No one seriously says this, of course; not Gaylin and Lappé. Nor anyone when pasting the justification label “for the sake of other fetuses” or “for the sake of other children” on experimentation on innocent, nonconsenting, or indeed condemned or dying fetal human subjects.

Then the covering of the only seemingly important justificatory category “for the sake of other fetuses or newborns” ought to be abandoned—or at least reduced to a quite subordinate role. For one thing, I see no sound or compelling reason to deny the doomed fetus the privilege of having its death “ennobled” by contributing to the betterment of humankind generally and the conquest of all our diseases—if, for example, no fetal research is under way in the medical center, they would otherwise be wasted in the incinerator, or if general medical progress could be very rapidly advanced by experimentation on fetuses in anticipation of abortion without that restriction. It is, indeed, a compromise arrangement. One could ask what is the purpose of it in the moral history of mankind: for the protection of the human subject or as balm for our consciences? If benefits alone justify, they justify a research practice without that limitation. Since we nevertheless cherish this compromise, we may secretly know that benefits alone justify very little in the moral life.

More important, that routine justification hides from view more significant limitations that are actually operative in medical research on unconsenting subjects: the degrees of possible harm or risks; how discernible they should be, and so on. These judgments need to be

#### THE HUMAN, LIFE REVIEW

debated, carefully refined, and formulated for research practice, if that is a moral rule-governed activity protective of human subjects. Such careful analysis is necessary if some forms of fetal research should ever be deemed ethical. Everyone's attention is taken from that issue and task when abortion is alleged to be in any way related to possible right-making features of fetal research. If that error does not tempt us to maximalist permissions, it still blunts discriminations where discriminations are due, and which need to be shown to be ethically decisive—if all fetal research should not be judged to be simply wrong.

The superiority of the original NIH effort at medical ethical rule-making is evident in the fact that it proceeded to give primacy to the principle, Do no harm—the Supreme Court notwithstanding. That point of view leads to morally significant distinctions between experiments to determine harm to the fetus and the testing of benign or helpful substances at the placental passage. It leads to questions about discernible risks, discernibly no risks, etc., and to debate about them. The inferiority of the subsequent revision is evident in that it dismissed the criteria of additional risk or harm when abortion is or is nearly coincident. To that a proper reply is, two coincident harms—the one to the unborn, the other to the fetal research subject, where they are the same life—cannot make a right.

#### NOTES

1. "The Human Fetuses as Useful Research Material," Case Studies in Bioethics, *Hastings Center Report* (April 1973) 3: 8-10. The discussants of this case were Dr. Robert S. Morison and Sumner B. Twiss, Jr. Subsequent references are to their debate about the ethics of this case.

2. "Issues in Draft Policy Debated in Council," *Ob-Gyn News* (April 15, 1973).

3. Willard Gaylin, M.D., and Marc Lappé, Ph.D., "Fetal Politics: The Debate on Experimenting with the Unborn," unpublished manuscript.

## Playing with Genes

Genetic engineers disagree about how safe is safe—which should make the rest of us feel very unsafe indeed.

**G**ENETIC ENGINEERS can marry two genes from different species, and inject the offspring into a living organism. Their techniques may provide wonder-strains of wheat to feed a starving world, or wipe out the planet by mistake. Last year a group of the world's leading genetic engineers called for a pause in research while the implications were weighed. As the frontiers of genetic engineering cannot be exactly defined, this vague sort of aspiration is not going to work.

Last February nearly 200 genetic engineers from many countries met to agree on a softer policy: that a committee, under the United States National Institutes of Health, should be set up to help put certain hastily agreed guidelines into effect. But, once again, hasty agreement has been followed by less rigid second thoughts. The committee has watered down the February guidelines. It is now preparing a second draft, to be considered in a month's time.

### **Real fears and false imaginings**

The debate is not about extreme fears that some mad dictator might use the techniques of genetic engineering to create a super-race of Frankensteins; ordinary techniques of selective genetic breeding could have allowed mad dictators to breed a super-race centuries ago, but man used them instead merely to breed pedigree dogs and cows. There are dangers that parents could be moving into an age when they will be able to choose for their children the shape, size and certain other attributes they want, but, even before genetic engineering makes this possible, a cheaper alternative already exists: the equally horrid technique of genetic counselling (eg, aborting foetuses unless they will grow up to have blue eyes and blond hair). It is not being used, but such things will become progressively easier.

Research into genetic engineering is going to escalate, whether it is banned or not. On an international plane, there is no way an enemy's bacteria armoury could be monitored, as nuclear tests can

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be. On an individual plane, the facilities needed are simple enough for any Dr. Jekyll to start playing around from now on. Imperial Chemical Industries' genetic engineering laboratory measures only 12 ft by 12 ft, and the actual genetic engineering apparatus is the size of a television set. A basic laboratory can be built for £10,000. It is easy to say loudly that there must be suitably tough controls on legitimate researchers and on industrial applications, but this is the sort of science where it would be mad to make controls so tough that some of the researchers and practitioners felt tempted or compelled to go underground.

The worries for the immediate future are mostly medical. The bacteria used for many of the experiments are *Escherichia coli*, which happens to be one of the most common tenants of the human gut. Some strains can give you enteritis. What might the superstrains created by scientists do? Some experiments should be made a criminal offence, such as putting into *E. coli* the botulinus toxin, a teaspoonful of which could wipe out London.

Genetic engineers may breed more bacteria resistant to antibiotics, by a sort of eager mistake. When a scientist plants supergenes in a sample of bacteria, he wants to establish which of the bacteria have accepted their superguests. So he adds to the supergene antibiotic resistance. Then, by adding antibiotics to the sample, it is much easier to see which bacteria have taken. If this only happens in a laboratory, some scientists will suppose it does not matter. But escapes from laboratories are far too easy. There have been 5,000 laboratory-acquired infections since the war, one-third in labs with special security. The scientists at last February's meeting said that the NIH committee's guidelines should insist not just on physical containment of the germs, but also on biological containment; this is one of the guidelines that has unfortunately now been watered down.

An example of biological containment would be to use only bacteria that survive at very high or very low temperatures—ie, that cannot survive in the human stomach. Another proposal: as there are about 1,000 kinds of antibiotic, and only a small number are used in medicine, perhaps a few strains could be restricted to genetic engineering use?

It will be better always to err on the side of safety. The rules should be tough, but reviewed regularly; so that experiments can be taken off (or added to) the danger list as more is known about them. Some scientists in small universities are worried that rivals with elaborate labs are trying to enforce stringent rules that will give big universities a monopoly of research. But genetic engineering is going to be a

#### THE ECONOMIST

basic science. Once the rules are established, a university without adequate facilities will have to build them.

When the superstrains are in wide commercial use outside the laboratories, there will be a whole new range of risks. In the United States, General Electric has patented a way of making superbugs eat oil slicks. Cetus, a Californian firm which undertakes operations in molecular biology on industry's behalf, is likely to be in the genetic engineering business within a year. The hundreds of possible commercial applications include: breeding the superwheat that could fix atmospheric nitrogen without using fertilisers; using fast-working bacteria to create energy from waste straw or sewage; and using bacteria to mine minerals in places where the metallic content is too low for normal mining. Factory inspectors are going to be busy. Most countries' factory inspectorates have not begun to be prepared.



## Men, Women and Miss Brownmiller

*M. J. Sobran Jr.*

<sup>66</sup> **A**N ETHICS OF RHETORIC," wrote the late Richard Weaver, "requires that ultimate terms be ultimate in some rational sense." By this he meant that our everyday terms of praise and censure should reflect a sound relation between what we encourage and what ought to be. "Equality," for instance, is among some people a term of great rhetorical force: to them, anything done in the name of equality is likely to be desirable. Others regard "liberty" as a supreme value, and regard things done in the name of equality as destructive of a greater good. An ethics of rhetoric must decide which of these terms more nearly reflects the kind of state we should desire. The word "racist" is one whose power to persuade and intimidate is, I think, in excess of its explicit sense: people use it promiscuously, without a clear sense of what "racism" is, let alone why it is evil.

"Racist" has set a bad example for other causes. Feminists have piggy-backed with "sexist," an even more problematic term, since differences between the sexes are surely deeper, and presumably more relevant in some respects, than those between races. We have had "ageist" and even "heightist" on the same analogy; there is now a blossoming animal liberation movement, so I look for "humanist" any time now as a term of abuse for us hamburger-eaters.

All this voguish cant reflects a state of general confusion in which language has lost its moorings. When people nowadays talk about "sex," they do not necessarily mean anything involving the sexes. They may simply mean genital stimulation, whether self-administered or performed by a member of one's own sex. Now having sex with one's own sex is a bit like being one's own best friend: as a figure of speech it may be more convenient than alternative formulations, but it is hardly to be taken literally. When a man talks to himself we do not ordinarily say he is engaged in a conversation.

When I wrote in a recent article that the purpose of sex was not fun but life, a reader said he did not know what I meant, and doubted that I knew either. I knew very well: I meant the self-evident. When we speak of a "sex," we mean one of two complementary types in the

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same species, whose union reproduces the species. Is it all that hard to understand? Yet the moment I say such things I find myself assailed for baffling my readers with mystical mumbo-jumbo, probably on orders from my bishop. Or it is thought that I am saying something silly, such as that coitus must be performed dutifully, out of high-minded concern for posterity. Or I am told that nobody accepts that sort of thing any more. In sum, what I am saying seems to be at once too high for my readers' capacities, and too low for their belief.

In contrast to such enigmas as mine, Miss Susan Brownmiller has lately told the world that men are not so much a sex as a conspiracy—a conspiracy against women. Her book *Against Our Will: Men, Women, and Rape* was widely hailed as a trenchant investigation of the relations of the sexes. One reviewer immediately termed it a "classic." It was a Book of the Month. *The New York Times Book Review* selected it as one of the outstanding books of the year. *Time* and *Newsweek* discussed it as news, rather than confining it to their book review sections; and *Time* named Miss Brownmiller as one of its twelve Women of the Year for 1975.

All this is remarkable, since Miss Brownmiller's thesis would seem to be not merely preposterous, but obviously so. She contends that rape, far from being an occasional aberration, is the foundation for the relations of the sexes in practically all of human society, the ever-present threat by means of which men subdue and oppress women. As she puts it in her opening chapter: "It is nothing more or less than a conscious process of intimidation by which *all men* keep *all women* in a state of fear."

This assertion, with its Hobbesian sweep, has naturally been widely quoted, and yet even the laudatory reviewers have tended to shy away from it. One of them assures his audience that although "some readers" will find the book's "conclusions" to be "extreme," its tone is "scholarly" and "reasoning." Others have offered similar qualifications. That is a necessity for any reviewer who wishes to remain credible, for Miss Brownmiller herself provides few qualifications, and them grudgingly; the whole spirit of her book, in fact, is inimical to qualification, as indeed it is to men.

Take for instance the sentence I have quoted (the italics are Miss Brownmiller's). It is a spectacular generalization if ever there was one, and a reader must be forgiven for demanding, if not some qualification, then at least some explanation. Its truth is not obvious, to say the least, and one wonders: what can she mean? One thinks of all the men one knows, and is baffled to think how even the most strenuous exertion of feminist ingenuity can suppose more than a few

of them involved in such a brutal conspiracy: in certain cases, those of (say) a uxorious uncle or a bashful nephew, the hilarity seems conclusively deflating to the obvious import of Miss Brownmiller's words.

Merely to quote them does not do full justice to their rhetorical bravura. They occur at the very end of the book's opening chapter; presumably the rest of the book is intended to justify them. But it fails to do so; indeed; fails even to attempt to do so. That rape is a peculiar and perennial threat to women is not to be doubted. But to say that "*all men*" participate in promulgating the threat, and *consciously*, is to make a slur of comical grandiosity; which, in the absence of pretty plausible argumentative support, would make its utterer, one would think, the laughing-stock of rational beings. But this has not happened. Miss Brownmiller receives not only indulgence, but honor.

Much of the book is given to horror stories of wartime mass rapes, barbaric legal codes, sexual blackmail, and so forth; most of them very gruesome, all right, but taking one a very short way in the direction of convicting "*all men*." The world did not require the advent of Miss Brownmiller to tell it that these things happen. What is notable is the tone of moral indignation she bears against men as such, having begun by noting that rape is, after all, made possible by the peculiar sexual constitution of human beings, whose capacity for arousal does not follow a seasonal cycle. What are men guilty of? Being equipped for rape? That would seem illiberal. Consequently she must charge them with deploying that equipment. But if *all* are guilty of this, then it would seem almost that the tendency to deploy, or at least to threaten deployment, is as ineradicable a part of the masculine constitution as the penis itself; in other words, if all men are either rapists or crypto-rapists, then efforts at suasion would seem to be as vain as sending an army to repel the incoming tide.

With a few passing exceptions, Miss Brownmiller does seem to be saying that men are such beasts. She treats the sexes less as sexes than as two sides in a war, like neighboring tribes with an ancient enmity. Her first-person title—"against *our* will"—suggests as much. The very terms "male" and "masculine" are for her terms of scorn and reproach: she speaks of "the deadly male myths of rape," "male semantics," "male logic," and one understands a fury in the words, but not the words. She actually speaks of Ayn Rand as "a traitor to her own sex" (One of Miss Rand's novels celebrates the rape of the heroine by the hero), and there is no trace of irony in the epithet: evidently she regards loyalties as breaking down along sexual lines.

If this were to be so, it is hard to understand why men should not be as callous toward women as she depicts them.

Therein lies the wonder of this book. Miss Brownmiller seems, at least in the text itself, to have given up on men. She speaks of them as enemies, as I say, and the book closes on an exultant note as she tells of the pleasure she has received by hurting and terrifying them in her self-defense classes. Yet this passage is followed by acknowledgements wherein she gently thanks all those, men included, nay, including the man she lived with for some time, for all their help in the preparation of *Against Our Will*. Reading consecutively, one moves from the savage places of alley and battlefield to the cozy and civilized realm of libraries, seminars, and grants-in-aid, and one feels that publishers with big advances cannot be far off. I have recently seen Miss Brownmiller interviewed on television, and was quite unprepared by her book for the urbane and charming lady I saw and heard. She seemed altogether too rational for her own thesis, and indeed partly contradicted it: chatting with ABC's David Hartman, she said that (I think this is verbatim) "the threat of rape is always there, and it is used, consciously or not." What becomes of that "conscious process of intimidation"? I was reminded of Samuel Johnson's jocular suspicion that Rousseau was only pulling Europe's leg, on grounds that "a man who talks nonsense so well must *know* that he is talking nonsense." It was Johnson, too, who remarked of skeptics like Hume, "Truth is a cow that will yield such people no more milk, and so they are gone to milk the bull." Watching her, one recalls that her book was not only assisted by men, but published by them, and praised by them (the only critical reviews I have seen, except my own, were written by women). She has received promotion and a courtly hearing from members of the gender she rails against (traitors to their sex, perhaps?) In the light of her visible relations to men, I cannot believe that she means her own words.

But, as I say, the book itself does not try seriously to back up the enormous assertion with which it begins. Instead it settles for scoring points, sometimes very skillfully, more often with desperation and strained sarcasm, against men-in-general. In the first chapter Miss Brownmiller speculates on the pre-historic origins of rape, moving easily from what "in my mind's eye I can picture" happening to what "might have" happened to what "must have" happened and so to what *did* happen ("rape became not only a male prerogative, but man's basic weapon of force against woman"); and thence to her thesis that present-day sexual relations are a displaced form of rape. She then proceeds to review, in a manner at once cursory and

peremptory ("It seems eminently sensible to hypothesize" that rape early on became institutionalized in patriarchy), the history of rape in the law. She dashes through Babylonian, Israelite, and early English codes on the subject, seeing in them only evidence that men have always been callous toward women: she shows no sense of the fragmentariness or ambiguity of the records, no sense of the wholeness of ancient societies or their way of conceiving their relation to the universe that might explain the various ways in which they not only fell short of her own Manhattan feminist standards, but neglected to attempt to meet them. The only subtlety of interpretation she betrays occurs when she says she thinks the story of Potiphar's wife ("she is not identified by a first name") is a typical male fabrication, designed to cast doubt on the veracity of rape victims.

Her recurrent complaint is that men have always regarded women as (mere) "property." She observes, for instance, that Hebrew fathers sold their daughters in marriage for fifty pieces of silver. "To use plain language, what a father sold to a prospective bridegroom or his family was title to his daughter's unruptured hymen, a piece of property he wholly owned and controlled. With a clearly marked price tag attached to her hymen, a daughter of Israel was kept under watch to make sure she remained in a pristine state, for a piece of damaged goods could hardly command an advantageous match and might have to be sold as a concubine." This is a fair sample of Miss Brownmiller's style: in such a stroke, the subject is dispatched. She does not even ask the rather obvious questions: what sort of economic system supported life in those days, and what were the sheer physical limits of the roles of the sexes? Did the absence of contraceptives make concern about virginity a reasonable concern for a man who wanted to be sure his prospective wife's progeny were his own? Were the daughter's wishes consulted at all? And so forth. Even more remarkably, this censorious writer does not pause to ask questions about her own assumptions, although she is forever telling us how her own researches have raised her consciousness. She assumes, to name only one debatable proposition implicit in all she says, that the proper relations of the sexes are the same in all times, places, and circumstances: namely, perfect equality and mutual independence. And she assumes that this ideal is not only universally proper, but universally feasible: or why deride the ancient Hebrew peasant for his failure to attain it?

Similarly, she mocks the Saxon laws of England that stripped the rapist of life and property, even requiring the mutilation of his animals. The raped virgin might redeem her violator by marrying him,

but Miss Brownmiller even finds something sinisterly male about extending to the victim such a prerogative as this. But onward. She writes: "Punishment for raping a virgin of property was thoughtfully reduced to castration and the loss of both eyes by William the Conqueror." She evidently means that William changed the law, not that he personally inflicted the penalties; and in her use of "thoughtfully" we see her sarcasm becoming as wild and aimless as her syntax. Would she have favored retention of the death penalty? Apparently not, since she later calls for the reduction of our current penalties for rape. What then should William have done? Miss Brownmiller neither says nor cares. She is scoring points, almost at random, on men.

In her chapter on rape in wartime, she makes a great deal of a remark from General Patton's memoirs, which she uses as an epigraph. "I then told him," wrote Patton, "that, in spite of my most diligent efforts, there would unquestionably be some raping, and that I should like to have the details as early as possible so that the offenders could be properly hanged." Here is how Miss Brownmiller begins that chapter: "It's funny about *man's* attitude toward rape in war. *Unquestionably* there shall be some raping. Unconscionable, but never the less inevitable. When men are men, slugging it out among themselves, conquering new land, subjugating new people, driving on toward victory, *unquestionably* there shall be some raping." Here again one wonders how her reviewers could apply to her such terms as "scholarly" and "reasoning." Patton surely was correct: during war things are out of control, and the re-imposition of control is difficult: there are not only rapes, but murders, pillagings, black markets. All one can do is punish whom one can catch, and the promise to hang rapists would seem to be as much as one could ask. Nonetheless, Patton's remark is seized on as typifying "man's" brutality, and his boorishness about his brutality. And does Miss Brownmiller regard *all* wars among men as imperialist—and on all sides? Was Patton in Europe on a mission of conquest and rapine? As usual, one understands her tone better than her meaning, if indeed she means to convey meaning rather than mere emotional sound effects.

The strongest part of the book is its examination of men's attitudes toward rape victims—ranging from the romanticizing of the "attractive" rape-murder victim (as she remarks, this seems to be a strict literary convention of crime reporters) to the tendency to blame the victim who survives her attack for somehow having provoked it. But is this simply a "male" tendency? Are rapists never acquitted by virtue of similar attitudes in women jurors? She asserts, and the evi-

#### THE HUMAN LIFE REVIEW

dence apparently supports her, that rape is a crime of aggression rather than lust as such: the rapist wants to degrade his victim rather than to release pent-up sexual energy. But those who are not sophisticated enough in psychology to know this can hardly be blamed for trying to find a causative explanation plausible to themselves, and non-rapists naturally tend to explain rape in terms of a desire so intense as to overwhelm self-restraint. Even a rapist who realized that his own lust was controllable might suppose that he was unusual in that respect.

She is also right and commendable, though not altogether original, in deploring the salacious and glamorizing image of rape that is now presented in Hollywood films, and she is right to say that pornography is *intended* to degrade women, owing its appeal to a kind of power-lust as well as to the more widely recognized appetite. Unfortunately she can never stay on the right track long: she is forever derailed by her own desire to degrade *all* men by associating them with the crimes and perversions of *some*. It is odd to find such undifferentiated sexual hostility animating a book protesting same.

The sheer accumulation of horrifying stories by no means justifies the sexual reductionism Miss Brownmiller wants to propagate. The worst deeds of bad men, hypnotically related, may disgust and shock, but they obviously fail to prove that "*all men*," including the best or even the ordinarily conventional, participate in a "conscious" conspiracy to frighten women into submission. Even within the book she backs off from her own thesis somewhat in charging that men of the upper classes profit from the terror sown by the lower-class rapist. "That *some* men rape provides a sufficient threat to keep all women in a constant state of intimidation, forever conscious of the knowledge [sic] that the biological tool must be held in awe for it may turn to weapon with sudden swiftness borne of harmful intent. Myrmidons to the cause of male dominance, police-blotter rapists have performed their duty well, so well in fact that the true meaning of their act has largely gone unnoticed. Rather than society's aberrants or 'spoilers of purity,' men who commit rape have served in effect as front-line masculine shock troops, terrorist guerrillas in the longest sustained battle the world has ever known." But if their social function has "largely gone unnoticed," most men have presumably not noticed it. So much for the "conscious process of intimidation." Later she notes angrily that most rapists do not even know that they have committed a serious crime; but, waiving the question why they do not do it in broad daylight, who, then, *does* consciously participate in the mas-

culine conspiracy? She pretty seriously whittles down her original assertion—unconsciously, no doubt.

There is surely a sense in which the general threat of violence, including rape, fortifies the conventional role of man as protector of woman. To say that men profit in that way, however, goes a very little way to establishing that Miss Brownmiller's sensational, and I suspect sensationalist, thesis is correct. The fear of rape, like the fear of muggings or of auto accidents, exists; that it gives men something to do does not at all prove that they deliberately foster it. Doctors profit from disease; but does that prove that they favor germ warfare? Miss Brownmiller profits from human irrationality; but does that prove that she would like to exterminate logicians? The problem of male violence and its implications has been well treated by George Gilder in his *Sexual Suicide* and *Naked Nomads*, both of which books, though abhorrent to feminists, are frank in confronting and brilliant in analyzing the problem Miss Brownmiller, so to speak, manhandles. They are based, as any fruitful discussion must be, on an investigation of what it means that there are two sexes, a fact which often seems as abhorrent to feminists as Mr. Gilder himself, and which Miss Brownmiller apparently finds no significance in besides that one sex is composed of predators and the other of their victims.

"Men are not unmindful of the rape problem," she concedes; adding, punch-line-wise, "to the contrary, their paternalistic codes reserved the harshest penalties for a violation of their property." That is not true, of course: crimes against property have generally been treated relatively lightly, as compared with (say) murder. But what Miss Brownmiller is saying, in her own way, is that men care about rape, sure, but only because they regard women as property. Once again she is merely whiny: does it really need to be said that a man cares when his daughter is raped, not because she is his property, but because she is his daughter? That is true now, when no price tag is attached to her hymen, and I make so bold as to say it was also true of the Hebrew father, notwithstanding the loss in silver her rape incurred him. Nay, if Miss Brownmiller were right, men today would generally rape their own daughters, since they stand to make no pecuniary gain from keeping the hymen intact. Do they do so? That is one test of the validity of her thesis, and those who purport to describe the world as it really is should be willing to venture predictions based on their models of social behavior. If rape is the model, it seems clear enough that rape should be the forecast.

The sound insight that makes her book as plausible as it is is that rape is a form of personal desecration. The aura of mystery that has



always surrounded the organs of procreation makes them a natural locus of personal violence: not only the rape of women but the mutilation of men has always been a grisly feature of war. We feel rape to be an outrage for the same reason that we feel a marriage vow to be sacred: and it is meant as an outrage. It may be, and it seems to me very plausible, that the multifarious cheapening of sexuality in our time has made rape seem to many men a sort of crude joke, and even on her own principles Miss Brownmiller, who says she has never been raped, seems overwrought. Why take it so seriously? The mocking question she dispatches comes back to her, as if by her own invitation; if feminists like her disvalue marriage fidelity, procreation (resembling in this, as Gilder points out, the crassest male chauvinists), then how can a rough assault on the genitals be held more serious than any other form of aggravated assault? Men do not write books about the unpleasantness of being beaten up by other men. The truth is that the gravity of rape derives largely from the sheer human indignity of it, and those who on principle perform the lesser indignities of fornication and sodomy are in no position to complain too much. But rape has been held a capital offense in societies which Miss Brownmiller would charge with slighting the dignity of women, merely because of their subordination of women to men—a very different thing, as a moment's thought will show. Who knows? Perhaps some Susan Brownmiller of the future, looking back on the lightness of our present penalties for rape—no hangings, eye-gougings, or castrations—will conclude censoriously that men in our day did not love women; when all she will be entitled to infer is that our institutional arrangements, though in keeping with our expressed values (and Miss Brownmiller would *reduce* present penalties), inaccurately reflect our private affections.

As I say, Miss Brownmiller herself seems not to believe what she says, although she probably *thinks* she believes it. She neither shows nor desires any sort of feel for the integral texture of remote social orders; she snatches polemically, like a young prosecutor, on any detail which, prescinded from time and place, looks incriminating to her and her circle. Whether she is examining ancient Israel or this week's New York *Daily News*, a mass rape or the supposed sexist solecism of General Patton, her tone hardly varies from shrewish anger, so that she seems not to sense the full gravity of what she most complains of. One hardly knows whether she detests men more for being brutes or for being boors; she thinks she is consciousness-raising when she is only hair-raising.

It must be admitted that she has shrewdly wired this lunacy into

M. J. SOBRAN JR.

the rhetorical currents that keep literary Manhattan lit up. Feminism is In, and she will be hard to top. An antisemitic thesis, say, of equal silliness and ingenuity, would not stand a chance, unless it could demonstrate that Jewry was uniquely "sexist" and "exploitative" in the same grave cant in which Miss Brownmiller demonstrates that men are so.

What about the male reviewers? Do they really think of themselves as unindicted co-conspirators? I doubt that. Then why are they not personally indignant at this nonsense? Their indulgence may be a residue of that complaisance one might have expected from a gentlemanly reviewer in an age when an authoress was still a literary curiosity. But it may be something else. *You're all rapists* she cries; and they retort, *Yes, dear*. It is, I think the classic male response to henpecking, that conscious process of intimidation by which *all women* keep *all men* in abject terror.

## APPENDIX A

*(The following is a speech presented by Dr. Harley S. Smyth as part of a public debate last March between the Canadian Association for the Repeal of the Abortion Law, and the Toronto Right-to-Life Association, which he represented. Dr. Smyth received a D.Phil. and an M.A. from Oxford University, and an M.D. from Queen's University, Canada. A neurosurgeon practicing in Toronto, he is a Fellow of the Royal College of Surgeons, Canada, and the author of The Bible and the Unborn Child: Biblical Reflections on Life Before Birth, soon to be published as part of Abortion in Canada: A Christian Perspective.)*

One year and one month ago today, I undertook a brain operation on a 23-year-old girl named Wendy. She had bled from a malformed thin-walled artery in her brain in the 5th month of her first pregnancy. Pregnancy greatly enhances the likelihood of repeated bleeding from such a lesion, and so her life was at serious risk. Through the use of a powerful new microscope, special microinstrumentation, and newly developed anaesthetic techniques, I was enabled, through the opening in her skull, to clip the deep feeding arteries to the lesion without damaging the surrounding brain, and to defuse the bomb which threatened repeated explosion at any moment. The operation took 11 hours, and I was totally dependent on the assistance of a 12-member team. There were two patients on the same operating table that day, a fact eloquently attested to by the presence of a separate team of two anaesthetists and two obstetricians who kept unbroken vigil over the movements and every heartbeat of the unborn child. This team mobilized every means within its reach to ensure the safe passage of this infant through what proved to be the most perilous hours of her nine-month journey into life. Wendy had her baby uneventfully last May, and both are well and fully normal. Only ten years ago therapeutic abortion would have been much the safest means of protecting Wendy from a disabling stroke or death. This experience—the second of its kind for me—illustrates two important medical facts: (1) There are two patients in every pregnancy. (2) The truly medical indications for truly therapeutic abortions are at most, thanks to the advance of the art, vanishingly few.

As I have indicated, operations can be long in theatre 8. Theatre 10, next door, is the scene of many more, much shorter procedures. In the 8 or 9 hours that I may spend seeking to preserve a life or restore the function of a portion of a diseased brain, 10 or 12 lives are brought to a violent end at various stages of their journey towards personhood. There were 1091 abortions performed last year at the Wellesley Hospital, whose motto is "Jamais sans espérance"—"Never without Hope." In abortion as I see it in 1975, it is difficult for me to identify the element of hope.

These procedures are, in no sense imaginable, "therapeutic"—in that they treat no disease, remove no pathological tissue, and cure no symptom. Moreover, they result in a mortality rate of 100% for one of the two patients of whom I spoke, and a not inconsiderable morbidity for the woman. (This takes the form of an as yet incompletely documented but increasingly evident series of complications, psychiatric, gynecologic and obstetrical.) The latter while not entirely irrelevant are not in any sense basic to tonight's question.

Please note that I am attempting *no* development of a doctrine of prenatal personality, or personhood. I freely confess that this issue remains a mystery to me as it probably does to most of us. I mention it only to declare its complete irrelevance to the moral and ethical issue at hand. If we are certain of one thing it is that there is life present. That life has only to cross a bridge of time to arrive at its personal destination. There was then, in Wendy's uterus, to be morally and linguistically precise, not a person, but a "person on her way." (A girl was born.) Abortion is thus a specific act directed, not at a fully developed human being, but at "a person

## APPENDIX

on his way." Moreover, from the time of conception it is biologically clear that the absolutely unique constitution of the 46 chromosomes of the zygote has determined very clearly who that particular person, given time, would become. So we may say, again very precisely, and without arguing at all that the fetus is fully personal, that abortion is an act directed at "a very particular person, on her way," (Wendy's baby's name is now Susan). Abortion is seen in this light clearly for what it is—the violent interruption of a voyage—the only means of altering a journey with a very specific and personal destination.

Those valiant for abortions can argue their case in only one of two ways:

1. By an attempt to shift the controversy to an absurd discussion about when the fetus becomes human,
2. By the careful preservation of a clear-cut blind spot square in the centre of their field of moral vision.

How is this blind spot produced? In what premises are its origins rooted? The proponents of abortion are usually quick to disclaim any dependence upon fixed assumptions or philosophies. Pragmatists all—not for them the war of theories concerning the nature of man! But the would-be architects of an entirely planned existence have indeed espoused a philosophy. The ideas put forward on the other side here tonight find their roots in an unscientific form of materialism that sees man as a thing. The result is a morally bankrupt and mechanistic determinism. The logic of this view is watertight, it must be admitted. Man is mechanism. A woman is a thing, not a person. A man is a thing, not a person. Each may use the other. This use may result in a third object—for the purposes of our subject tonight, but one of a class of disposable things in a throw-away society. In practice it results in an exact reversal of the old injunction to serve people and use things.

This is the pragmatic utilitarian philosophy of Hegel in its full flower, whether or not we recognise it by its name. But this notion of a planned existence is a view that is demonstrably false by the test of life itself—as any parent of a sick child, as any disabled person, or as any dying patient and most doctors will tell you.

It has been put to work, however, and in a very highly systematic fashion. Six million two hundred and ninety thousand human lives later, it took Nuremburg to show us the fully logical out-working of this philosophy as expressed in legislation and applied to medicine.

What is the validity of this analogy as applied to the question of the evening? The parallels of Belsen and of abortion in Canada are not complete, but there is a common factor. Just this—that whatever enormities were eventually perpetrated in the '40's, one thing is clear—they all had small, subtle, modest beginnings. In 1946 many of the German doctors interviewed remained apparently genuinely puzzled. "We never thought it would come to this," they said. "Where did it all begin?"—a question now tragically echoed by many of my obstetrical colleagues.

It all began, in that instance, with one small step in 1931 when Bavarian psychiatrists advocated, and later introduced, sterilization and finally euthanasia for the chronically mentally ill. There followed an insidious stepwise corrosion of medical thinking wherein rational utility replaced moral and ethical guidelines of medical care. It started with the acceptance of the attitude, basic to the whole movement, that there was such a thing as an unwanted life, a life not worthy to be lived. This infinitely small wedge in the door was highlighted by the developing attitude to the weakest members of the patient population. It is to their lasting honour that the occupied Dutch physicians resolutely refused down to the last man and woman to partake in any part of this programme. It was a stand which cost over 100 of them their lives. They recognised with lucid insight that it is the first step, however slight, away from a principle that is the most important one. They drew the line there. I have thought about this question long and hard—for five years before making any public statement. My colleagues . . . know well how reluctant a

## THE HUMAN LIFE REVIEW

participant I am tonight. But here tonight, in this place, I draw a line too. And I appeal to my fellow physicians here, and across this wide and great nation—stop the killing!

I have said that this utilitarian philosophy of a planned existence is based on a sterile vacuous materialism. It is a way of thinking of life that is demonstrably false by the test of life itself. Is there an alternative?

There *is* another view of human life; it is the only view that has stood the test of time, because it is the only view that rings true to human experience. It is a way of understanding that will long outlast materialism, and the current enormities which are its offspring. It is the view that life is not a frightening accident over which we must seek mastery, but that life is a gift, of which we may become, for a short season, loving caretakers and loyal stewards. This view will outlast all others because it alone is true to the reality of daily experience.

## Letters

### An Ecumenical First?

I hope you realize that you are publishing the first genuinely ecumenical journal to be published in this country?  
*Los Angeles, Calif.* G. CHACHIS

### The Catholic Issue

It was a great mistake to use a Roman Catholic Catechism to argue against abortion (John A. Hardon, HLR Fall, '75) because you only add to the charge that abortion is "just a Catholic issue." Surely there are non-Catholics you can find to contribute to the anti-abortion side?

*Tulsa, Okla.* DEBORAH ALLEN  
(*In fact, the majority of our contributors to date have been non-Catholics.—Ed.*)

### Abortion and "Sexual Freedom"

As expressed in his article "The Abortion Sect" (HLR, FALL '75), M. J. Sobran's approach to arguing the abortion issue seems to employ that issue only as a tool or debating mechanism for the advancement of other social goals. Not only does such an argument detract from abortion's status as one of the key moral issues of our time, fully deserving of decision on its own merits, but many of its specifics play into the hands of abortion proponents.

Particularly disturbing is his conclusion that the abortion argument should be tied to the free love issue. Regardless of its morality or merits, "sexual freedom" seems so well entrenched in the value schemes of millions of the young (who will be making the majority of abortion decisions in the years to come—whether legal or illegal at the time) that any struggle against it would have to be viewed in terms of generations rather than years. One need only consider the number of abortions which would occur during this period to conclude that such an approach is tactically unsound. But even if the current acceptance of the new sexual mores is not as firm or widespread as I assume, there are independent reasons for not adopt-

ing this approach. The decision on abortion is not merely an adjunct of some broader debate on the relative merits of self-fulfillment and social responsibility. The issue is not life styles, it is life and death—and every time we permit side issues to obscure this elemental fact, we undermine the impact of our most compelling argument. In this case, the effect is further aggravated because the premises underlying Mr. Sobran's conclusion (e.g., "the purpose of sex is not fun—it is life") tend to reinforce one of the pro-abortion movement's favorite myths—that abortion is just another form of contraception and should be thought of as such.

To succeed, we must force the potential abortion advocate to independently examine the pro-abortion position rather than, as Mr. Sobran and Dr. Johnson put it, contract it "by contagion." Indeed, one of the most important keys to the success of the pro-abortion forces has been their very ability to characterize their position as being solidly in the mainstream of liberal thought. For unlike the sexual permissiveness issue, the basis of a solid pro-life argument already exists in both the theory and popular rhetoric of liberalism. While it may be more appealing to a conservative to join with Mr. Sobran in focusing on the liberal's emphasis on the "animal" in man (conveniently ignoring, of course, the central role which man's baser instincts play in the thought of many conservative theorists), much liberal thought is based on a concern for human dignity and an ability to empathize with individuals in situations different than one's own. Thus, arguments aimed at forcing the realization that respect for human life in all its forms is the cornerstone of human dignity, combined with those aimed at heightening awareness of the prenatal child as a being worthy of empathy may have great impact on the groups which Mr. Sobran would concede to the pro-abortion movement. Of course, arguing in these terms will not aid in discredit-

## THE HUMAN LIFE REVIEW

ing liberals; it will merely save lives. Each of us will simply have to decide which he considers more important.

Columbus, Ohio

MARK LALLY

### More on the Court

Your article on the Court by Alexander M. Bickel ("The Supreme Court and Evolving Principle," HLR Fall '75), although excellent, was only a small part even of the chapter involved. You left out his most telling arguments.

Woodside, N.Y.

REGINA MITCHELL

### Who Will Pay?

I read with great interest your issue on abortion and euthanasia . . . especially Malcolm Muggeridge and Eugene Ionesco (HLR Summer, '75) but wonder why none of your writers make what would seem to be an obvious point: the abortion issue will *itself* make euthanasia acceptable, probably on a large scale. When Napoleon decimated French manhood, he made everybody who was left—young and old alike—more valuable. But when the baby-gap abortion is now producing in America hits us in, say, 15-20 years, an enormous percentage of the *then* population will be old enough to be pensioned off. Who will pay? It will be far easier for the next, reduced generation to become more "concerned" about easy death (for anyone over 60?) than to bankrupt itself feeding its unproductive elders. You may be sure it *won't* bankrupt itself . . .

Washington, D.C.

A. E. HIGGINS

### Muggeridge and Christianity

I am always impressed by Malcolm Muggeridge's arguments (and read him whenever and wherever I can); I am therefore surprised that he would so narrowly base his anti-abortion arguments ("What the Abortion Issue Is About," HLR Summer '75) on an appeal to Christianity.

N. Weymouth, Mass.

J. SKAHILL

### Euthanasia Is Different

Your generally excellent journal is, it seems to me, far too narrowly concerned with the abortion issue. By comparison with euthanasia, abortion is a simple

problem, if for no other reason than that no *baby* wants to die, whereas a great many adults do—and have the right to choose death—under certain circumstances.

This problem, when tied so closely to abortion, will only end up making legalized abortion harder to stop. For instance, did you know that the great Charles Lindbergh, knowing that he was terminally ill, refused further treatment and went off to a Pacific island to die naturally? I think he had a perfect right to do so, and before you answer that that's "obvious," think of this: all too often today people are put into the kind of "life saving" apparatus by which modern science can vegetate humans *before* they realize, or are told, that death is inevitable; then, when the question arises, Can we turn off the machine?, "anti-euthanasia" people say "no!" That is unnatural, I believe, and wrong, and somebody had better start making the necessary distinctions about such things. In other words, death for the already-born is a very different matter from killing the unborn. I hope you will do some articles about this soon.

Bronxville, N.Y.

B. MCKEON

### Doctors as Priests

I read with great interest the article by Eugene Ionesco (HLR, Summer '75), especially his apt comment: "It is dangerous to criticize doctors. We are in their hands." That is one of the great problems of modern times. "Science" has not only *replaced* religion, it *is* our religion, and "scientists," very much including doctors, are our priests. We believe in *health*, the good almighty, and will do anything to get it, just as the saints did anything (including ruining their health) to gain salvation. Certainly most people will do anything their doctor tells them to do—religiously.

Philadelphia, Pa.

ALFRED ROMARY

Your concern for "Human Life" evidently does not include the medical profession. Both Eugene Ionesco and Gen. [Thomas A.] Lane seem to think doctors are the enemy! Yet doctors have done more good for humanity than any other

## LETTERS

professional group. If they sometimes approve of abortion and euthanasia, it is because it often is "mercy killing." It is easy for others to condemn some poor misbegotten (literally) child to a ghastly life, or "allow" cancer victims to die horribly. But doctors have to *see* these things. No wonder they often find the burden intolerable!

New York City

NAME WITHHELD

### Who Is Sobran?

Who is "M.J. Sobran"? Is it a pen-name? He writes like somebody out of the 18th Century (or before), and seems about as much in tune with the modern world. "Abortionism, then," he says (HLR, Fall '75) "is part of an integral world-view that sees man as an animal; an animal whose destiny is a life of pleasure and comfort." *What* is he talking about!?

Wyckoff, N.J.

J. P. MORAN

I must say, I have read all of M.J. Sobran's articles with interest, but especially his "The Abortion Sect" (HLR, Fall '75). Abortion-as-religion may not be accurate entirely, but it is not *far* off.

It has always amazed me that those who advocate abortion do so as if it were a *good* thing to do—everybody should have at least one! (Maybe if ERA is ever passed, we will be able to?) None of these people seem to have the least regret at taking a life. If they spoke of "the terrible need" for abortions *in some cases*, that would be one thing. But good? Sobran has gone straight to the heart of the matter.

Ronkonkoma, N.Y.

WALLACE BURKE

M.J. Sobran makes some good points ("Abortion and the 'Right to Speak,'" HLR, Summer '75) and I have no doubt it is because he obviously reads the late great C.S. Lewis, whom he quotes. My only criticism is that he writes in a very unusual style, referring to so many things his readers may not know. Given the vital importance of your subject, you should try to make it understandable to *everybody*.

Minneapolis, Minn.

JENNIFER LUCAS

(*Mr. Sobran is a very real young man, aged 29.—Ed*)





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