

the HUMAN LIFE REVIEW



WINTER/SPRING 1985

10th Anniversary Issue

Featured in this issue:

Malcolm Muggeridge • Alexander Solzhenitsyn
Joseph Sobran • Governor Mario M. Cuomo
Archbishop John J. O'Connor • Congressman Henry J. Hyde
Francis Canavan • John Tagg • Archbishop Bernard F. Law
John T. Noonan, Jr. • Frank Zepezauer
The Honorable Clare Boothe Luce

Plus messages from:

His Holiness Pope John Paul II • President Ronald Reagan
Walker Percy • William F. Buckley, Jr.

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We have lately received a letter to our editor which we know will be of interest to everyone associated with this review. We are honored to reproduce it here, just as we received it from Cardinal Agostino Casaroli.

EDWARD A. CAPANO
Publisher



SECRETARIAT OF STATE

No. 144360

VATICAN CITY

February 8, 1985

Dear Mr. McFadden,

His Holiness Pope John Paul II duly received your letter, informing him that the Human Life Review is celebrating the tenth anniversary of its publication. He has asked me to express to you and to all those associated with you in this initiative his felicitations and cordial good wishes for the occasion.

The Catholic Church has given consistent emphasis to the moral principle of the sacredness of all human life and to the obligation on the part of everyone to respect and protect life at every stage of its development. This moral principle and this obligation prescind from every political, economic and ideological consideration since they are rooted in the very structure of God's plan for the human person and the created world.

His Holiness wishes to encourage all worthy initiatives, such as your publication, which support the moral tenets upon which society is based and help to promote respect for life in the modern world.

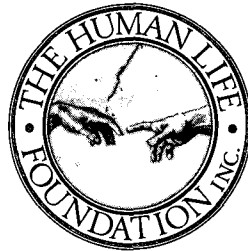
With every good wish, I am

Sincerely yours,

A. Card. Casaroli
Secretary of State

Mr. James P. McFadden
Editor, Human Life Review
150 East 35th Street
New York, NY 10016

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INTRODUCTION

A DECADE AGO, Mr. Malcolm Muggeridge wrote: “Generally, when some drastic readjustment of accepted moral values, such as is involved by legalized abortion, is under consideration, once the decisive legislative step is taken the consequent change in *mores* soon comes to be more or less accepted, and controversy dies down. . . . Why, then, has it not happened with the legalization of abortion?”

In fact, we did not read those words when, some seven years after abortion was legalized in Britain, they first appeared in the London *Sunday Times*. But we were pondering the same question, with this difference: it was then less than two years after our Supreme Court had legalized abortion in these United States. Would the outrage inflamed by that fateful decision die down? Not having Muggeridge’s prophetic insight, we feared that it would.

For Mr. Muggeridge had, as usual, put the case just right: in our nation, certainly, the rule has been that even the most unpopular court decisions are, in due course, accepted. (The great exception was *Dred Scott*.) The proximate reason why is, we’d say, that Americans have granted their judges *moral* as well as legal suasion: what is legal is, somehow, *right*. Certainly there are those who argue that in our times Justice no is longer considered to be in the nature of things, but rather what the law *says* it is, so far have we fallen from that Judeo-Christian consensus that once permeated the *mores* of our Western civilization. Thus the unborn child has no God-given inalienable right to life unless a High Court recognizes it.

But we are not scholars. We are journalists who believe that the unborn deserve the positive Justice now denied them. And so we took thought as to how we might help restore such Justice.

The problem was indeed that the Court’s 1973 *fiat* was in fact a *legislative* one, usurping the powers of both the Congress and the several states to frame and pass the laws under which we must live. True, *Roe v. Wade* was only one in a still-growing series of such Court usurpations, but it is surely the most egregious, not only in its once-unthinkable result—more than 15 million unborn innocents slaughtered legally—but also in its effrontery: at one stroke, *Roe* overturned the anti-abortion laws of every state in the Union.

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What was to be done? The question echoes the title of Lenin's famous revolutionary gospel. And so did—a joke of history, surely—our answer. One day in early 1974, we were talking to the philosopher James Burnham, a valued friend and mentor, and a man whose insights into the “modern” mentality remain unsurpassed in our experience. He said *inter alia* (conversations with Burnham were limited to *everything*) that Lenin in his struggle for power had always sided with the faction that had “the theoretical journal”—*ideas* would win the revolution.

Obvious truths can suddenly surprise: we were *counter*-revolutionaries: no nation aborts its own future unless it has lost faith in that future; the abortion plague grew out of the revolutionary collapse of confidence America (indeed, the Western world) suffered in the 1960s; it would not be reversed until, once again, we conceived our children in hope of a better future. Ideas can win counter-revolutions as well.

That, dear reader, was the genesis of this journal. We suffered no illusions: victory was surely impossible. But what cause is better than a *lost* one? And—Who knows—history too can surprise. When in 1955 Wm. F. Buckley Jr. began publishing his now-famous *National Review*, social conservatives were a tiny, demoralised remnant. Thirty years later it is interesting to recall that Ronald Reagan was a charter subscriber.

There were additional inspirations. Good writing can win battles, great writing whole wars. In the Abortion War, who would command the best “vendors of words” (to use Muggeridge's felicitous description of the craft)? Our bet was: *our* side. What writer proud of his gift would befoul his reputation by supporting the killing of unborn babies, much less use his art to advocate it? And just so, we'd say, it has proved: no renowned writer has yet come forward as the champion of abortion (surely some privately favor the “choice”?), whereas we have had no difficulty whatever in publishing, over the past ten years, perhaps three million words, an impressive number of them authored by fine writers, virtually *all* of them contributed by talented people proud to affirm their open and public support of our “lost” cause.

And so we went to work. Naively: professional journalists we may have been, but we were amateurs *in re* abortion. Would we find the “good copy” we needed? This fear caused a decision that, in retrospect, may well have been our best: we decided to run any piece—new, old, already printed elsewhere—we thought we *ought* to publish. So we cast our net wide and (O we of little faith!) were soon inundated with a huge catch of good stuff. Our problem was (and remains) to choose the best.

INTRODUCTION

The first issue (Winter, 1975) duly appeared the following January. The lead article—proposing a Constitutional Amendment to reverse the Court—was by James L. Buckley, then senator from New York, who deserves a special place in our history: almost single-handedly, he began the determined anti-abortion battle in the U.S. Congress. Professor John T. Noonan also wrote in support of an amendment. And we ran our first article by one M.J. Sobran, who in due course became Joseph Sobran, our most faithful contributor. There was much more (it was a healthy first-born of well over 100 pages).

We printed 30,000 copies, an astounding number for a journal lacking both subscribers and any “commercial” purpose. Yet we *did* have an audience. First, there were the noble thousands who had responded to our appeal for help in starting such an unusual publication (their tribe has, we are happy to report, grown steadily over the decade).

And, from the first, we sent out thousands of copies to . . . well, “public” people—judges, congressmen, “opinion makers.” And of course to writers: for instance to Malcolm Muggeridge (whom we hadn’t then met), asking if he would “do us a piece.” Imagine our glee when he quickly responded that he *would*, because “I admire anybody willing to fight a lost cause”! Meanwhile, he said, would we like to run a piece he had done for a London paper? We did so in our third (Summer, 1975) issue, under the title “What the Abortion Argument Is About.” It is the article quoted above, and it remains the best description we’ve ever read of what this journal is about. We are proud to reprint it again as the lead article in this 10th Anniversary issue.

It is hard to explain what this, our 41st issue, means to *us*. Not surprisingly, we had originally wondered if there would be a *second* issue: as we say, there was no certain audience, nor any chance of “success” in commercial terms. All would depend on whether that first issue gained us the support we needed to carry on what was, by any standard, a major publishing venture. It did.

Over the years, our review has not only grown greatly in readership but also, we’d say, in stature. And while we have never strayed from our original focus on the horror of abortion, we have extended our purview to matters related and—some might say—unrelated (but then what issue is unrelated to human life?). For instance, religion. From the beginning of the present controversy, the charge has been made that those who oppose abortion do so only for religious reasons. No, not *only*: any atheist might well admit that the unborn offspring of human beings are also human beings. But it is true that most religions—certainly the Judeo-Christian religions—teach the sanctity of human life. So it is not surprising that religious people, believing that the unborn are fellow humans, should be involved in the battle, as they were in the battle against slavery, which

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also reduced to the fundamental question: Who is human?

But then slavery still flourishes, for instance in the *Gulag*. And an incredible abortion rate also plagues Soviet “society.” That juxtaposition caused us to write Mr. Alexander Solzhenitsyn, to ask if he might want to contribute something to this issue (it would be an honor to have anything from a man we consider a prophet of our times), even though we were well aware that Solzhenitsyn now devotes all his energies to a breathtaking inspiration: literally to restore to his beloved Russia her history, stolen by the Soviets.

We were delighted to hear from Mrs. Solzhenitsyn that while it was true her husband was immersed in his great project, he would be happy if we ran something that has not been printed here—we were doubly delighted, because the “something” was his interview with (who else?) Malcolm Muggeridge, which took place in London shortly after Solzhenitsyn received the Templeton Prize in May, 1983.

Fittingly for an American audience, the interview was broadcast on the BBC on the Fourth of July (the version we print here first appeared in *The Listener* of July 7, 1983). Needless to say, we are proud to run it, and have no doubt our readers will find it a fascinating—and moving—piece of history, a testament to Faith unconquerable.

On a grand scale, it concerns religion and politics, and should, we think, serve as a grand introduction to the peculiarly American controversy about religion in politics. Mr. Joseph Sobran, whose essays (always bristling with powerful arguments) have graced virtually every issue of this review, leads off with another virtuoso performance as prologue to a series of seven documents relating to what became a major controversy in the 1984 presidential election campaign.

We mean the now-famous “O’Connor-Cuomo” debate. Here is a brief synopsis: last June, New York’s Archbishop John J. O’Connor answered a reporter’s question thusly: “I don’t see how a Catholic in good conscience can vote for a candidate who explicitly supports abortion.” The media later ballooned his *en passant* remark into national news, and pro-abortion papers such as the *New York Times* fanned the flames of the controversy, e.g., by “suggesting” that O’Connor’s statement was directed at New York’s Governor Mario Cuomo, and Democratic Vice-presidential Candidate Geraldine Ferraro, among others. Mr. Cuomo most evidently agreed, and announced that he would “answer” the Archbishop. He chose to do so at Notre Dame. Archbishop O’Connor responded, in effect, with a speech in New York.

Meanwhile, Rep. Henry Hyde, the leading congressional anti-abortion spokesman, travelled to Notre Dame to answer Cuomo. And our Joseph Sobran was commissioned by a Catholic organization to write an Open Letter to the Gover-

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nor. Our esteemed colleague Francis Canavan, S. J., added another of his finely-honed essays. All this *before* the voting last November, just after which Boston's Archbishop John F. Law gave his views to the media. You will find all these documents in this issue, along with yet another commentary, by Mr. John Tagg, on Governor Cuomo's position. Taken together, they comprise a remarkable series of statements on an historic debate that is by no means over—indeed, may only have begun.

What was the general opinion of abortion *before* the Supreme Court legalized it on January 22, 1973? The question is of great importance; historic memory dims quickly. It is difficult now to remember how *radical* the Court's action seemed then. Thus we think it most appropriate that, in this special issue, we publish an essay by Professor John T. Noonan, Jr., a celebrated legal scholar (and, as noted, a regular contributor from our first issue), which first appeared in 1970, before the Court's unexpected *fiat*. It might well be called a Short History of Abortion, from ancient times to the then-present. When he wrote, Professor Noonan was obviously addressing the case for abortion "reform," which was then threatening the existing prohibitions. It is—as you will see—impossible to describe his lengthy essay briefly. But rereading it today, it seems obvious that Noonan's main point was that two millenia of Christian civilization had formed a consensus against a pagan practice.

Who then would have dreamed that the Court would simply disregard what Noonan called "An Almost Absolute Value in History" in favor of pagan practice—specifically citing the latter as "precedent"? We think you will find that Noonan's powerful essay is more timely now than when first written: certainly it remains a formidable *amicus* brief for the unborn.

Our final article is also a fitting one. We noted that, while expanding our purview, we have kept a sharp focus on abortion. Mr. Frank Zepezauer's article demonstrates *how* we've managed it: he illuminates how deeply our "prime" issue permeates so many other issues of the day, in this case the question of "choice," and what it has come to mean for self-styled Feminists. Which obviously raises questions *in re* the status of families, and thus of the general condition of our society, of which the family remains the basic unit, as it must for any viable society—as you see, legions of vexed questions are subsumed by "our" issue.

But there is yet more: we've saved a special treat for last, the perfect dessert for what we trust is a feast of good reading. It too involves a tale, beginning, alas, on a sad note.

Last October, Mrs. Dorothy Farmer, who was for almost forty years the private secretary to Mrs. Clare Boothe Luce, was stricken and died. Those who

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knew Dorothy (to meet her even once was quite enough to make anyone covet her friendship) were well aware that she was far more than mere friend and confidant (“Really, like a sister,” Mrs. Luce said when she called with the terrible news). We are proud to say that she was—pardon the inelegant but accurate phrase—a great fan of this review, and therefore a great help to us; whoever or whatever Dorothy was enthusiastic about benefited, unfailingly. Were journals dedicated to individuals, this one would be dedicated to Dorothy Farmer. *Requiescat in pace.*

As it happened, Mrs. Luce had accepted an invitation to speak to Washington’s National Press Club a few days afterwards; she did not want to cancel on such short notice, but, understandably, hardly had her mind on speechwriting. What was she to speak *on*, we asked: “Oh, religion and politics, naturally” she answered—the O’Connor-Cuomo debate had, as you recall, made the topic a hot campaign issue. It was just then that our friend Joe Sobran had given us his manuscript on that very subject (now printed in this issue), and we asked if she would like to see it, knowing she too was a great admirer of Sobran’s style. We sent it off, and arranged for a front-row table at the Press Club. During lunch, a note was delivered from the speaker’s table: “No time for a text, I’ll have to wing it—Clare.” And we were to thank Mr. Sobran for his timely help.

Wing it she did, as only Mrs. Luce can: the laughter and applause she provoked surely set the Club record. In the midst of it she rummaged through a sheaf of papers, and we realized that she was using a paragraph or three of Sobran’s text for an ad-lib *exegetis*, as only Mrs. Luce can ad-lib!

So, as an anniversary present to you (and to us as well), Appendix A gives you generous excerpts from the transcript plus our poor efforts to convey the *feel* of it all; there is of course no way to adequately transcribe Mrs. Luce’s hilarious rendition of Winston Churchill’s famous voice (a *diva* performance that brought down the house).

Her verbal *tour de force* would grace any publication, and we are delighted to have her bring down our 10th Anniversary curtain.

Over the past decade we have published hundreds of articles, including other memorable ones by Mrs. Luce, and Malcolm Muggeridge, and others included in this issue. We regret that some of our most faithful contributors could not be included: for instance James Hitchcock, and our old friend Erik von Kuehnelt-Leddihn—but they will be back soon. And, save only Joe Sobran, no one has contributed more fine original essays than our other Contributing Editor, Ellen Wilson; however, she has the perfect excuse (now Mrs. Richard Fielding, she is busy caring for newborn Peter Henry Fielding—we hope to hear from her too before long).

INTRODUCTION

But without doubt our most famous article was "Abortion and the Conscience of the Nation" (Spring, 1983) by President Ronald Reagan. When we sent him our congratulations after his historic re-election last November, we happened to mention our coming anniversary issue. In due course we received a reply, which we are honored to reproduce here:

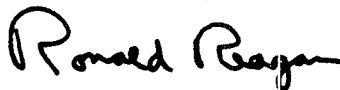
THE WHITE HOUSE
WASHINGTON

December 19, 1984

Dear Jim:

Please add my congratulations to the many I know you'll receive on the 10th Anniversary of The Human Life Review. As I said in my article for your review, respect for the sacred value of human life is too deeply engrained in the hearts of our people to remain forever suppressed. But the great majority of the American people have not yet made their voices heard, and we cannot expect them to -- any more than the public voice arose against slavery -- until the issue is clearly framed and presented. That is exactly what your review has done so well for a decade. Keep at it, for four more years and beyond.

Sincerely,



Mr. James P. McFadden
The Human Life Foundation, Inc.
150 East 35th Street
New York, New York 10016

Thank you, Mr. President: we mean to do just that, God willing.

J.P. MCFADDEN
Editor

What the Abortion Argument Is About

Malcolm Muggeridge

GENERALLY, WHEN SOME drastic readjustment of accepted moral values, such as is involved by legalized abortion, is under consideration, once the decisive legislative step is taken the consequent change in *mores* soon comes to be more or less accepted, and controversy dies down. This happened, for instance, with the legalization of homosexual practices of consenting adults.

Why, then, has it not happened with the legalization of abortion? Surely because the abortion issue raises questions of the very destiny and purpose of life itself; of whether our human society is to be seen in Christian terms as a family with a loving father who is God, or as a factory-farm whose primary consideration must be the physical well-being of the livestock and the material well-being of the collectivity.

This explains why individuals with no very emphatic conscious feelings about abortion one way or the other, react very strongly to particular aspects of it. Thus, nurses who are not anti-abortion zealots cannot bring themselves to participate in abortion operations, though perfectly prepared to take their part in what are ostensibly more gruesome medical experiences.

Again, the practice of using for experiment live fetuses removed from a womb in abortion arouses a sense of horror in nearly everyone quite irrespective of their views on abortion as such.

Why is this, if the fetus is just a lump of jelly, as the pro-abortionists have claimed, and not to be considered a human child until it emerges from its mother's womb? What does it matter what happens to a lump of jelly? What, for that matter, is the objection to using discarded fetuses in the manufacture of cosmetics—a practice that the most ardent abortionist is liable to find distasteful? We use animal fats for the purpose. Then why not a fetus's which would otherwise just be thrown away with the rest of the contents of a surgical bucket?

Malcolm Muggeridge needs no introduction to our readers. This article (adapted from an earlier version in the London *Sunday Times*) first appeared in our Summer, 1975 issue.

It is on the assumption that a fetus does not become a child until it is actually delivered that the whole case for legalized abortion rests. To destroy a developing fetus in the womb, sometimes as late as seven months after conception, is considered by the pro-abortionists an act of compassion. To destroy the same fetus two months later when it has been born, is, in law, murder—*vide* Lord Hailsham's contention that "an embryo which is delivered alive is a human being, and is protected by the law of murder . . . any experiments on it are covered by the law of assault affecting criminal assault on human beings."

Can it be seriously contended that the mere circumstance of being delivered transforms a developing embryo from a lump of jelly with no rights of any kind, and deserving of no consideration of any kind, into a human being with all the legal rights that go therewith? In the case of a pregnant woman injured in a motor accident, damages can be claimed on behalf of the child in her womb. Similarly, in the UN Declaration of Rights of the Child, special mention is made of its entitlement to pre- as well as post-natal care. It is a strange sort of pre-natal care which permits the removal of the child from its mother's womb, to be tossed into an incinerator, or used for "research," or rendered down for cosmetics.

Our Western way of life has come to a parting of the ways; time's takeover bid for eternity has reached the point at which irrevocable decisions have to be taken. Either we go on with the process of shaping our own destiny without reference to any higher being than Man, deciding ourselves how many children shall be born, when and in what varieties, which lives are worth continuing and which should be put out, from whom spare-parts—kidneys, hearts, genitals, brainboxes even—shall be taken and to whom allotted.

Or we draw back, seeking to understand and fall in with our Creator's purpose for us rather than to pursue our own; in true humility praying, as the founder of our religion and our civilization taught us: Thy will be done.

This is what the abortion controversy is about, and what the euthanasia controversy will be about when, as must inevitably happen soon, it arises. The logical sequel to the destruction of what are called "unwanted children" will be the elimination of what will be called "unwanted lives"—a legislative measure which so far in all human history only the Nazi Government has ventured to enact.

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In this sense the abortion controversy is the most vital and relevant of all. For we can survive energy crises, inflation, wars, revolutions and insurrections, as they have been survived in the past; but if we transgress against the very basis of our mortal existence, becoming our own gods in our own universe, then we shall surely and deservedly perish from the earth.

Socialism Is Absolutely Opposed to Christianity

Alexander Solzhenitsyn *interviewed by* Malcolm Muggeridge

MALCOLM MUGGERIDGE: *I would very much like to know if you consider it possible, or conceivable, that the whole Gulag apparatus could be abolished without some violent upheaval in the Soviet Union?*

ALEXANDER SOLZHENITSYN: It is not only the Gulag which expresses the nature of violence which is inherent in the communist system. It is only its extreme form, it is only the extreme manifestation of violence. But there is a whole gradation of violence; so really your question should be turned round in this way: is communist totalitarianism possible without violence? The answer is: no, not for one single day.

MUGGERIDGE: *That makes it absolutely clear. Well, the present situation is that you have, in both the USSR and the USA, this vast nuclear potential. Is it possible to imagine, therefore, that we shall avoid having a nuclear war?*

SOLZHENITSYN: You know, for some reason I want to say that I'm *convinced* that there will be no nuclear war. There can be various interpretations of why such conflict will not take place. If only, after 1945, the West had not disarmed itself, had not let all its armed forces disband but had retained conventional armies, then today there would be no danger of a nuclear confrontation. I won't go through all the various possibilities, but I will stop over one, and it is a very pessimistic variant. It is a possibility which in fact is the summary of ten years of concessions and capitulation. One of the reasons why there will not be a nuclear conflict is that the West has, in fact, given in on nuclear balance, and has lost any kind of initiative in a balance of conventional forces, and is very unprepared for subversion from within. So that, in fact, even without having recourse to any nuclear confrontation, there are all sorts of possibilities for the communist leaders.

MUGGERIDGE: *I'm a very old journalist now, and it quite often happens that people ask me what is the most significant thing that has happened in*

Mr. Muggeridge's interview with Mr. Solzhenitsyn was broadcast on the BBC2 on July 4, 1983. This edited version is reprinted here with the kind permission of both men.

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the last 50 years. Well, I always say one thing, which partly derives from your writings, and that is, in fact, the revival of the Christian faith in the one place in the world where I would have expected it to have had no chance of reviving. In other words, would it be true to say that the efforts of the Soviet authorities to prevent any faith in Christianity or any practice of the Christian religion have been a failure?

SOLZHENITSYN: What you have said has a profound significance. For the last five, six decades we have seen in, oh, many places in the world the victory of communism. True, those are victories which don't really bring much good to people; they are not economic victories, they are not good, positive victories, they are really victories of power. And in my country the communist powers in fact took, so to speak, military steps against the Christian faith. The signal for an attack against Christianity was given right at the very beginning by Lenin and Trotsky. Millions of peasants were slaughtered in order to eradicate faith from the very roots of the people. Millions of hours of propaganda time were used in order to burn out the faith from the hearts of the children. And yet, despite this, we can say that, after all these years, communism has not destroyed the Christian faith. Christianity went through a period of decline, but now it is growing and reviving. And that is the most hope that one can see anywhere, not only in my country, but anywhere in the world. For the moment I see no end to the military victories of communism . . . It looks as if the shadow of communism is covering the earth more and more deeply. I would compare this with an eclipse of the sun. But with an eclipse of the sun a small portion of the earth is darkened, whereas with communism it is half the earth which is in darkness, perhaps even three-quarters. But because communism has already shown its weakness, its inability to destroy Christianity, for this reason we may hope that the shadow will gradually pass across and clear the earth; and will perhaps clear precisely those countries which have been in the deepest shadow until now. It is amazing, but Dostoevsky saw all this at least one hundred years ago.

MUGGERIDGE: . . . *Not only that, but he saw, in The Devils, that the demon that would bring it all about was the demon of liberalism. I always think that you are like Dostoevsky . . .*

SOLZHENITSYN: I never stop wondering, I never stop marvelling, at the prophetic power, the prophetic vision of Dostoevsky. We already see

happening what he foresaw in many parts of the world, but what is amazing is how he saw the very first beginnings and sometimes even saw things that had not even begun in his time. When I was a school-boy there was no Dostoevsky among the Russian writers . . . he just hadn't existed . . .

MUGGERIDGE: . . . *But now they've revived him—and the fascinating thing to me, the most amazing ideological acrobatics that I've ever seen, is that they're trying to persuade us that in fact Dostoevsky was a hang-over from Karl Marx and that, really, although Lenin spoke severely about him, he admired him.*

SOLZHENITSYN: There is no end to Marxist acrobatics. It's not only Dostoevsky who has, so to speak, been colonized as an ally, but, while attacking Christianity, they are ready to colonize our Lord Jesus as well. The political atheist literature in fact maintains that Marxism continues what Christianity began; that it makes possible what Christianity failed to achieve. If this were only limited to the communist countries . . . But this trick, this sleight of hand, we find it everywhere in the whole world; because socialists everywhere ascribe Christian virtues to themselves, constantly. Socialism is, in fact, absolutely opposed to Christianity. Christianity is founded on good will; whereas socialism is founded on violence or, if you like, on pressure at any rate.

MUGGERIDGE: *Do you think that the West is fated then to be swallowed up in this thing—that there will be a complete disintegration of our Christian civilization?*

SOLZHENITSYN: Both threats are very much alive, very present. If one were to speak merely of the simple advance, the simple push to communism, yes, it is very possible that communism may come to obscure the West. But by that same law of the eclipse of the sun, the shadow will pass; the West may escape this destiny, this fate. But if the West does not find in itself the spiritual forces, the spiritual strengths to rise again, to find itself again, then, yes, Christian civilization will disintegrate. We use the same words to describe the same phenomenon—democracy. Democracy was originally developed before the face of God. And the foundation of its concept of equality was equality before God. But then the image of God receded, it was pushed away by man. And this same democracy changed, and acquired a very strange character. And the responsibility that each

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person had before God, this concept of responsibility has been lost; whereas the so-called democratic institutions cannot exercise any force, any pressure. And so, having lost any concept of true responsibility, we are, so to speak, free to destroy our institutions and ourselves.

MUGGERIDGE: *Do you think, then, that the situation is hopeless?*

SOLZHENITSYN: Thank God, and I mean thank God, the situation is never hopeless. In the USSR you might say that we have lost everything, and yet our position is not hopeless. I do not consider that human history has reached its ultimate point. The history of the decline of Christian civilization . . . the history of communism which has come into the world . . . all this will be measured in sections, but history will continue. The lesson that we, mankind, humanity, the lesson which we have to learn takes many centuries to learn.

MUGGERIDGE: *I've thought about it a lot, and I've thought this: that we could say, perhaps, that when we say Western civilization we mean Christendom: on one level we could say that Christendom is finished, but not Christ . . .*

SOLZHENITSYN: I wouldn't like to say that the social form of Christian life has gone for ever. I think it is very possible that here, too, there are possibilities of change or development which we simply don't know about. And indeed, if it were not still present, then Christianity would be something that would be removed from us, would, so to speak, ascend to the heavens. I think we shall see many forms of Christianity on earth.

MUGGERIDGE: *I was first in Russia as a young journalist in 1932. Now, of course, at that time everybody adulated Stalin in an entirely and utterly extravagant way, including many distinguished Western authors. Then came Krushchev's speech at the 20th Party Congress, and the busts of Stalin were taken away—he was abolished. Do you think that they will ever put him back?*

SOLZHENITSYN: There isn't really actually such a need for this any more. Andropov in some ways is perhaps following in the steps of Stalin—not in the same extreme way, but he is following in his footsteps. It's enough simply to have the two models, Lenin and Marx. And if there are too many in between, then the significance, the importance, of the originals diminished . . .

SOLZHENITSYN/MUGGERIDGE

MUGGERIDGE: *What I want to know is, take the ordinary Russian people, they were given this extraordinary idea of Stalin, this great man . . . and then they woke up one morning and he was not a great man at all. Now, do they afterwards think, well, perhaps his successor might not be a great man . . . does it destroy their confidence?*

SOLZHENITSYN: Here I think that, for the Western mind, history has been written inaccurately. Even in the Thirties, I knew scores of people who in fact had absolutely no respect for Stalin—in the villages it was the most uneducated, the simplest people. So really, the dethronement of Stalin was no event and no surprise to them. It was a shock for the highest levels—for the communist elite—and for the so-called progressive Western circles who actually believed in Stalin.

MUGGERIDGE: *Now, I want to ask a personal question. Do you expect ever to go back to Russia?*

SOLZHENITSYN: In a strange way, I not only hope, I'm inwardly absolutely *convinced* that I shall go back; I live with this conviction, I shall go back. Now, that contradicts any rational assumption; I'm not so young, and I can't point to any actual facts which make me say this. History is so full of unexpected things that some of the simplest facts in our lives we cannot foretell.

MUGGERIDGE: *Well, I hope with all my heart that this one comes true. I shan't be here, but if I can observe from up there what's going on, then I shall rejoice.*

SOLZHENITSYN: My life now, from early morning till late at night, is working on my writing. And I really do feel that at last I'm doing that for which I was born. But all this is illumined by the sun—by the light that is my hope of returning to my country.

Religion in Politics

Joseph Sobran

MANY PEOPLE WOULD SAY that religion and politics are not fit topics for polite discussion. Well, last year we heard plenty about both. Each of the four national candidates had something to say on these topics, politely and impolitely, all the while protesting that they would prefer to say nothing at all.

Everyone agrees in principle on the separation of church and state. Nobody wants to establish a state church or even mandatory prayer in public schools. And these two points of agreement point to a deeper consensus on the importance of religious freedom, and therefore of religion itself.

Amid the gales of controversy, it's good to be able to locate a point of consensus. We are, as Justice William O. Douglas observed, "a religious people, whose institutions presuppose a Supreme Being." Alexis de Tocqueville marveled at the vitality of religion in a nation that lacked an established church: the very absence of legal privilege for any single faith or denomination made religion a powerful force in America's social and public life. Acting as leaders of private, voluntary associations, American clergymen have played crucial roles in political affairs beginning with the Revolution, and continuing through the Abolitionist movement, the Prohibition movement, the Civil Rights movement, the peace and disarmament movements, and even—though their participation has been less and later than one might have expected—the anti-abortion movement.

Americans have never been shy about invoking religion in their political arguments. At times they have done so in ugly ways. Thomas Jefferson, for example, was accused by his enemies of being a "Deist"—an unbeliever in Christ who doubted the active interest of God in human affairs. Today we're hearing charges and countercharges as to who first "injected" religion into politics. The simple truth is that Americans have always considered politics under the aspect of religion.

The constitutional lawyer Leo Pfeffer has celebrated what he calls "the

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triumph of secular humanism.” It’s true that secular humanism has won some major court victories in recent years, but the “triumph” is so far from complete that the very people who used to be called “secular humanists” are now fleeing from the label they once adopted for themselves. Now they prefer to call themselves “pluralists” or even “People for the American Way”—as if to imply that the way of most Americans from Cotton Mather to Jerry Falwell has somehow been an un-American activity.

It won’t wash. There is no need to “inject” religion into politics, because there is no possibility of keeping it out. It is already there. It has been there from the start.

Unlike other modern nations, America has an explicitly theological foundation. The Declaration of Independence speaks not only of human equality and human rights but of a Creator who is their source. This was so far from being a controversial idea that the authors and signers of the Declaration, a pluralistic lot as far as their personal beliefs went, agreed that these truths were “self-evident.”

The whole Slavery question was debated in religious terms. On one side were those who held that the Negroes inherited the curse of Ham. On the other were those who held that the overriding truth was the humanity of the Negro. And by humanity, they meant that black people were as truly made in the image of God as whites. It was a controversy between two theologies—one narrow and negative, the other large and inclusive. The eloquence of Abraham Lincoln appealed to the theology of the Declaration of Independence, and prevailed by its magnanimity.

Lincoln was a rare wartime leader who could speak passionately of Divine Providence while avoiding any suggestion that Providence was specially partial even to a cause in which he profoundly believed. He emphasized not only the humanity of black people but also the humanity of his enemies, who oppressed them. All his hope lay in “the better angels of our nature.” Even while waging a war in good conscience, he feared the divine rebuke.

Lincoln stands as a permanent example of how religious rhetoric can exalt and civilize political passion. I recommend him to those tempted to use religion as a partisan weapon—but also to those who assume that religion in politics can only inflame self-righteousness, while adding nothing positive.

There is an old maxim that the abuse of a good thing doesn't negate its proper use. Religious controversy can be bitter. Irreligious controversy can be worse. The record of atheist regimes in our time gives us no grounds for hoping that a purely secular politics has any tendency whatever to avoid excesses of violence and persecution. The theologian Richard John Neuhaus has reminded us of the dangers of "the naked public square"—political life stripped of all reference to transcendence.

We're now seeing a creeping assumption that politics can do without God. This amounts to virtual atheism, at least at the public level. It really begs the question it pretends to avoid: if God exists, he takes an interest even in the sparrow, and it's not too much to assume that he takes an interest in those creatures made in his image. If he does, we had better take an interest in him.

One of the curiosities of history is that the very charge that was made against Jefferson in his own time—his alleged unbelief—is now taken by many of his modern admirers as a compliment. After all, didn't he doubt the divinity of Christ? Didn't he tell us of a "wall of separation" between church and state? Didn't he despise most forms of organized religion?

Yes, to all three questions. But this doesn't mean that he was not, in his own way, a devout believer. And he believed not in an indifferent heavenly watchmaker, but in a God who intervened in history. "Indeed," he wrote, "I tremble for my country when I reflect that God is just, and that his wrath cannot sleep forever"—he was talking about Slavery. He had a lively fear that God would actually punish this nation—as he *did*. And that is how Lincoln understood the Civil War—as a divine judgment on the nation he loved.

God's existence is not the kind of question that can be permanently "bracketed" or deferred. If he exists, he is, supremely, a reality to be reckoned with, and it is preposterous to expect believers to behave as if he were merely a private deduction or abstraction.

I'm amazed at how religion is treated in the press and the electronic media. Somehow we *have* gotten the notion that religion and morality are purely "private" affairs, and that our entire national tradition requires us to treat them as such. Underlying this is a further assumption that "public" and "private" refer to two radically separate kinds of activity. According to this crude dichotomy, politics and economics are "public," while sex and religion are "private," and never the twain shall meet.

JOSEPH SOBRAN

These are indeed complex questions, but the fashionable dichotomy does nothing to address their complexity. The public and private may be indispensable categories for certain purposes, but they are also very often just two different aspects of the same facts.

Is your sex life private? The answer is not so obvious as it may seem. The correct answer is: up to a point. If I ask whether you're married, I'm asking a question about your sex life from what may be a legitimate public perspective. The state has a proper concern with your marital status. In fact marital status is largely a public status. Once I know that you are indeed married, I can infer certain facts about you which would be obscene to spell out in physical detail. And nothing can be more "private," in one sense, than the meeting of sperm and ovum in the womb. And yet at some point the state has the right and the undeniable need to ask: Whose child is this?

Is your religion private? Again, up to a point. But in order to protect religious freedom, the state has to know what religion is. If it knows that people are worshipping in a certain building, it can exempt that building from taxation. It can't, of course, know whether the worshippers are sincere, or whether the doctrines they profess are true. But our whole system is based on the assumption that religion-in-general has positive value, and is worthy of public protection. The state's modesty about deciding ultimate questions of religious truth does not commit it to dogmatic agnosticism.

The separation of church and state, as institutions with different sources of authority, is a practical compromise, not a metaphysical doctrine. As a practical compromise, it forever encounters practical difficulties. The most famous of these in our history concerned the Mormon practice of polygamy. In 1878 the Supreme Court ruled that Congress had the right to prohibit polygamy in the territories, on the grounds that the freedom to believe does not confer an equal freedom to act. This solution presents difficulties, but it's hard to see how else, as a practical matter, the question could have been handled. The Mormons officially gave up polygamy in 1890, and Utah was admitted to the Union in 1896. New questions of the kind are still arising, notably with respect to so-called "cults" whose methods of enlisting and retaining new members are being challenged in court by parents of some of those members.

The answers the courts give won't satisfy all the religions, and there is

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no reason either to expect them to do so or to expect the religions to consider the secular solutions definitive. Nobody has yet found a perfect theoretical distinction between the public and the private, nor is it just a matter of a simple external boundary. St. Augustine distinguished between the cities of God and man. Some are citizens of both, but while we reside in the human city we simply can't know who the denizens of the heavenly city are. Some kinds of behavior belong to both the public and the private spheres, but they don't fall neatly into two obvious divisions. To try to divide them externally may be as wrong-headed, I say, as trying to establish a community of saints on earth. At the same time, we have to remember that there is an important difference, even when we don't know exactly what it is.

The public and the private have meaning only reciprocally—taken together. You can't retire to private life unless someone is working hard to maintain public order. Some libertarians would abolish the public, just as Marxists would abolish the private. But they are meaningless when separated.

In the ancient polis, everything was what we would call "public." The private was only a residue. Plato and Aristotle casually advocated population control policies, to be carried out by the rulers, which we would regard as monstrous. It was only in the Christian era that a "private" sphere began to gain autonomy and finally primacy. This could only happen when the state itself became aware of another dimension of human nature that was beyond its authority. The very idea of privacy has a religious foundation.

Think about it: we now take for granted that the very purpose of the state—of public life—is to defend what George Will has called "the primacy of private life." But in our confusion, we forget that inescapably this means that the state has to take cognizance of private forms of activity. It can't ignore them, as some secularists would have it do, without actually violating them.

We also see confusion in the demand that the state abandon the traditional moral consensus about some activities—abortion, homosexuality, pornography—while according these things special recognition as positive "rights." They may fall within larger protected categories—as the courts have tried to locate them within the "penumbra" of an ill-defined and

overly general “right to privacy”—but they can’t be defended in themselves.

And we see how the moment they are accorded protection, they are treated as morally positive—good—in ways that bind the whole community to some very questionable commitments. The supposed “right” to abortion now requires taxpayers in many states to pay the *abortionist*. The fact that the taxpayer by definition had no choice seems not to disturb those people who call themselves “pro-choice.” In the same way, some advocates of “gay rights” want to restrict the choices of landlords and employers who disapprove of their conduct.

The demands of these groups are curious. On the one hand, they demand an apparent moral neutrality of the public sphere, and they rule out as illegitimate the moral qualms of their adversaries. At the same time, on the other hand, they present their own desires as moral imperatives. The public square isn’t so naked after all.

In a way, I find this reassuring. It testifies that the moral sense will not down. Even those who plead for an amoral public square are forced to resort to moral argument. They appeal from politics to something outside politics, indeed to something prior to politics that could never be derived from purely political premises. My only complaint is that they do this selectively, forbidding their opponents to do likewise.

All private questions have a way of turning public. The claims of pornographers were originally advanced in the language of privacy: consenting adults, and plain brown wrappers. Now we are affronted and insulted at every newsstand and the smut merchants dare us to try to do anything about it. Porn has come out of the wrappers and spilled over into all our popular culture, giving us not the promised freedom of artistic expression but a pervasive crassness. It colors, and taints, our relations among ourselves as citizens. Is this of no “public” concern?

The founders of the Republic were champions of “republican virtue.” They correctly assumed that the Republic itself could never be the source of this kind of virtue. They took for granted a level of moral consensus in the culture that would generate the virtues on which public life depends. I think they would be astounded to see the Republic itself used as a means of preventing the formation and maintenance of that kind of consensus.

Bad taste, Stendhal observed, leads to crime. It is no exaggeration to say that those who are crass are likely to become the Adolf Eichmanns of

any society. For every Hitler or Stalin, there have been thousands of ordinary people, morally desensitized, to execute their commands. These people are so numerous that they rarely achieve infamy, but they are the people who should really frighten us.

It may seem odd to call Adolf Eichmann “public-spirited.” But in a sense that is what he was; that is *all* he was. He lived only for the state. He did his job within the immediate rules. He didn’t try to impose his personal views: that, indeed, was his defense plea. If he had any “personal views” that might have inhibited him, he may have felt that they were “only” religious.

A columnist recently wrote of a certain politician that his religion is so private he won’t even impose it on himself. We’re all familiar with that odd sort of politician who accepts as fully legitimate “gay rights” or “abortion rights” the minute they make their first appearance in the form of political demands. It isn’t just the substance of these demands that should disturb us: it’s the crassness of the politician who has no extra-political dimension to make him pause before proposals which, whatever may be said for them, have profound and possibly revolutionary implications. We feel something lacking in a man who has no personal criteria to bring to bear on his public life. We are likely to regard him simply as a party hack, but there is more to it than that.

The party hack is a harmless-enough figure when party politics occurs in the context of a normal moral consensus. But in an age of moral revolution, he can become a sinister figure, made evil, in Hannah Arendt’s famous phrase, by his very banality. Seeing himself as a mere instrument, he is perfectly willing to be the instrument of what others (not he) would call evil. He is inhuman because he is impersonal. He sees nothing amiss in the question, “How many divisions does the Pope have?”

The moral innovators—secular humanists, if you will—are free to attack our tradition, or to propose their own agenda as something superior to our tradition. But they have no right to tell us that their agenda *is* our tradition, because it isn’t.

Our tradition has always accepted the proper *role* of tradition in what Pastor Neuhaus calls “the culture-forming tasks.” Culture, in the broad sense of a system of values and symbols, lives and moves and has its being in private life, but it is under no obligation to stay there. That is not even possible, let alone desirable. And as the experience of Poland

shows, no government can rule justly or even effectively in opposition to culture. Religious debate helps to nourish political debate. It always has; it always will.

The debate on the tragedy of abortion offers us an opportunity to rediscover ourselves and our tradition. Some will say that the “old” consensus is gone forever; I prefer to think of it as the once-and-future consensus. It isn’t merely old: it’s perennial. The wanton killing of the unborn, sometimes in excruciating pain, simply doesn’t fit our culture. Of course abortion is always a human temptation; of course there are hard cases; of course some of us will want to make exceptions, and in fact the laws used to reflect our marginal disagreements.

But I would remind you that when the Supreme Court ruled in *Roe v. Wade* that abortion laws were unconstitutional, it struck down the laws of ALL of the states—the most liberal along with the most restrictive. It attacked a very basic consensus about the value of life. It didn’t just broaden the exceptions; it abolished the rule. It attacked a cornerstone of American culture.

Some people object that any reversal of *Roe v. Wade* would lead to a “patchwork” of conflicting state laws, so that any law could be circumvented by crossing a state line. Maybe so. But a federal system means precisely that a law at some level is bound to be a “patchwork.” We used to have a similar patchwork of divorce laws, and Reno was famous as the Mecca of quickie divorces. But for that very reason, divorce didn’t enjoy an unequivocal moral legitimacy. The stricter laws reminded people of the importance of marriage. They reflected the consensus. They helped save many marriages.

Few laws are completely enforceable. But law doesn’t exist for the sole or primary purpose of punishing illicit acts. It exists as an expression, in a broad sense, of the kind of people we are. When it can no longer do that, we have lost the right of self-government. The current debate about the role of religion in our public life is a healthy sign that we aren’t yet ready to surrender that right.

One further thought, and I am done. In recent years, one private institution has gained increased prominence, status, and importance in our national life. I refer to the press. And I’m sorry to say that the press hasn’t done all it might do to further the discussion of religion’s role. Until 1980, there was very little mention of religion in the press at all—certainly

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nothing in proportion to the place of religion in American life. I must say, that press coverage of religion sometimes reminds me of the observation of Winston Churchill's friend Duff Cooper: "For the vast majority of English people, there are only two kinds of religion: the Roman Catholic, which is wrong, and the rest, which don't matter."

I'm not betraying any secrets to note that the nation's press isn't a stronghold of piety. But I don't think the problem is hostility or even indifference to religion. I think it's more nearly *unconsciousness* of religion, at least as a force in public affairs or cultural life.

I call the press a "private institution." This sounds odd even to me. We are so used to thinking of the press as a quasipolitical institution—a "fourth branch of the government." As such, it tends to be regarded, especially by its own members, as dealing with "public" things, like government, rather than "private" ones, like religion. I've already given my reasons for thinking this distinction is inadequate. And I must say that when forced to cover religious persons, events, and controversies, too many journalists exhibit what someone has called the "cultural and theological illiteracy of our times." They think of "culture" narrowly, in the terms of the arts, and they think of theology as an arcane, irrelevant, and probably superstitious discipline, like astrology (though most newspapers aren't above carrying horoscopes).

So my final hope today is that the press will begin to broaden its mandate. Most newspapers carry a daily business section; after all, as Calvin Coolidge told us, "The business of America is business." But there are millions upon millions of Americans who think they must be about their Father's business. They deserve more attention. And they deserve to be taken seriously. They are renewing America.

Religious Belief and Public Morality

Mario M. Cuomo

I speak here as a politician. And also as a Catholic, a lay person baptized and raised in the pre-Vatican II Church, educated in Catholic schools, attached to the Church first by birth, then by choice, now by love. An old-fashioned Catholic who sins, regrets, struggles, worries, gets confused, and most of the time feels better after confession. The Catholic Church is my spiritual home. My heart is there, and my hope.

There is, of course, more to being a Catholic than having a sense of spiritual and emotional resonance. Catholicism is a religion of the head as well as the heart, and to be a Catholic is to say “I believe” to the essential core of dogmas that distinguishes our faith. The acceptance of this faith requires a lifelong struggle to understand it more fully and to live it more truly, to translate truth into experience, to practice as well as to believe. That’s not easy: applying religious belief to everyday life often presents difficult challenges.

It’s always been that way. It certainly is today. The America of the late twentieth century is a consumer society, filled with endless distractions, where faith is more often dismissed than challenged, where the ethnic and other loyalties that once fastened us to our religion seem to be weakening.

In addition to all the weaknesses, dilemmas, and temptations that impede every pilgrim’s progress, the Catholic who holds political office in a pluralistic democracy—who is elected to serve Jews and Moslems, atheists and Protestants, as well as Catholics—bears special responsibility. He or she undertakes to help create conditions under which *all* can live with a maximum of dignity and with a reasonable degree of freedom; where everyone who chooses may hold beliefs different from specifically Catholic ones—sometimes contradictory to them; where the laws protect people’s right to divorce, to use birth control, and even to choose abortion.

In fact, Catholic public officials take an oath to preserve the Constitu-

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tion that guarantees this freedom. And they do so gladly. Not because they love what others do with their freedom, but because they realize that in guaranteeing freedom for all, they guarantee *our* right to be Catholics; *our* right to pray, to use the sacraments, to refuse birth control devices, to reject abortion, not to divorce and remarry if we believe it to be wrong.

The Catholic public official lives the political truth most Catholics, throughout most of American history, have accepted and insisted on: the truth that to assure our freedom we must allow others the same freedom, even if occasionally it produces conduct by them that we would hold to be sinful.

I protect my right to be a Catholic by preserving your right to believe as a Jew, a Protestant, or nonbeliever, or as anything else you choose. We know that the price of seeking to force our beliefs on others is that they might someday force theirs on us. This freedom is the fundamental strength of our unique experiment in government. In the complex interplay of forces and considerations that go into the making of our laws and policies, its preservation must be a pervasive and dominant concern.

But insistence on freedom is easier to accept as a general proposition than in its applications to specific situations. There are other valid general principles firmly embedded in our Constitution, which, operating at the same time, create interesting and occasionally troubling problems. Thus the same amendment of the Constitution that forbids the establishment of a state church affirms my legal right to argue that my religious belief would serve well as an article of our universal public morality. I may use the prescribed processes of government—the legislative and executive and judicial processes—to convince my fellow citizens—Jews and Protestants and Buddhists and nonbelievers—that what I propose is as beneficial for them as I believe it is for me; that it is not just parochial or narrowly sectarian but fulfills a human desire for order, peace, justice, kindness, love, any of the values most of us agree are desirable even apart from their specific religious base or context.

I am free to argue for a governmental policy for a nuclear freeze not just to avoid sin but because I think my democracy should regard it as a desirable goal. I can, if I wish, argue that the state should not fund the use of contraceptive devices not because the pope demands it but because I think that the whole community—for the good of the whole community—should not sever sex from an openness to the creation of life.

MARIO M. CUOMO

And surely I can, if so inclined, demand some kind of law against abortion not because my bishops say it is wrong but because I think that the whole community, regardless of its religious beliefs, should agree on the importance of protecting life—including life in the womb, which is at the very least potentially human and should not be extinguished casually.

No law prevents us from advocating any of these things: I am free to do so. So are the bishops. And so is Reverend Falwell. In fact, the Constitution guarantees my right to try. And theirs. And his.

But should I? Is it helpful? Is it essential to human dignity? Does it promote harmony and understanding? Or does it divide us so fundamentally that it threatens our ability to function as a pluralistic community? When should I argue to make my religious value your morality? My rule of conduct your limitation? What are the rules and policies that should influence the exercise of this right to argue and promote?

I believe I have a salvific mission as a Catholic. Does that mean I am in conscience required to do everything I can as governor to translate *all* my religious values into the laws and regulations of the state of New York or the United States? Or be branded a hypocrite if I don't?

As a Catholic, I respect the teaching authority of the bishops. But must I agree with everything in the bishops' pastoral letter on peace and fight to include it in party platforms? And will I have to do the same for the forthcoming pastoral on economics even if I am an unrepentant supply-sider? Must I, having heard the pope renew the Church's ban on birth control devices, veto the funding of contraceptive programs for non-Catholics or dissenting Catholics in my state?

I accept the Church's teaching on abortion. Must I insist you do? By law? By denying you Medicaid funding? By a constitutional amendment? If so, which one? Would that be the best way to avoid abortions or to prevent them? These are only some of the questions for Catholics. People with other religious beliefs face similar problems.

Let me try some answers. Almost all Americans accept some religious values as a part of our public life. We are a religious people, many of us descended from ancestors who came here expressly to live their religious faith free from coercion or repression. But we are also a people of many religions, with no established church, who hold different beliefs on many matters.

Our public morality, then—the moral standards we maintain for every-

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one, not just the ones we insist on in our private lives—depends on a consensus view of right and wrong. The values derived from religious belief will not—and should not—be accepted as part of the public morality unless they are shared by the pluralistic community at large, by consensus.

That values happen to be religious values does not deny them acceptability as a part of this consensus. But it does not require their acceptability, either. The agnostics who joined the civil rights struggle were not deterred because that crusade's values had been nurtured and sustained in black Christian churches. Those on the political left are not perturbed today by the religious basis of the clergy and lay people who join them in the protest against the arms race and hunger and exploitation.

The arguments start when religious values are used to support positions which would impose on other people restrictions they find unacceptable. Some people *do* object to Catholic demands for an end to abortion, seeing it as a violation of the separation of Church and State. And some others, while they have no compunction about invoking the authority of the Catholic bishops in regard to birth control and abortion, might reject out of hand their teaching on war and peace and social policy.

Ultimately, therefore, the question “whether or not we admit religious values into our public affairs” is too broad to yield a single answer. “Yes,” we create our public morality through consensus and in this country that consensus reflects to some extent religious values of a great majority of Americans. But “no,” all religiously based values don't have an *a priori* place in our public morality.

The community must decide if what is being proposed would be better left to private discretion than public policy; whether it restricts freedoms, and if so to what end, to whose benefit; whether it will produce a good or bad result; whether overall it will help the community or merely divide it. The right answers to these questions can be elusive. Some of the wrong answers, on the other hand, are quite clear. For example, there are those who say there is a simple answer to *all* these questions; they say that by history and practice of our people we were intended to be—and should be—a Christian country in law.

But where would that leave the non-believers? And whose Christianity would be law, yours or mine?

The “Christian nation” argument should concern—even frighten—two

groups: non-Christians and thinking Christians. I believe it does. I think it's already apparent that a good part of this nation understands—if only instinctively—that anything which seems to suggest that God favors a political party or the establishment of a state church, is wrong and dangerous.

Way down deep the American people are afraid of an entangling relationship between formal religions—or whole bodies of religious belief—and government. Apart from constitutional law and religious doctrine, there is a sense that tells us it's wrong to presume to speak for God or to claim God's sanction of our particular legislation and His rejection of all other positions. Most of us are offended when we see religion being trivialized by its appearance in political throwaway pamphlets.

The American people need no course in philosophy or political science or church history to know that God should not be made into a celestial party chairman. To most of us, the manipulative invoking of religion to advance a politician or a party is frightening and divisive. The American people will tolerate religious leaders taking positions for or against candidates, although I think the Catholic bishops are right in avoiding that position. But the American people are leery about large religious organizations, powerful churches or synagogue groups, engaging in such activities—again, not as a matter of law or doctrine, but because our innate wisdom and democratic instinct teaches us that these things are dangerous.

Today there are a number of issues involving life and death that raise questions of public morality. They are also questions of concern to most religions. Pick up a newspaper and you are almost certain to find a bitter controversy over any one of them: Baby Jane Doe, the right to die, artificial insemination, embryos in vitro, abortion, birth control . . . not to mention nuclear war and the shadow it throws across all existence. Some of these issues touch the most intimate recesses of our lives, our roles as someone's mother or child or husband; some affect women in a unique way. But they are also public questions, for all of us.

Put aside what God expects—assume if you like that there is no God—then the greatest thing still left to us is life. Even a radically secular world must struggle with the questions of when life begins, under what circumstances it can be ended, when it must be protected, by what authority; it too must decide what protection to extend to the helpless and

the dying, to the aged and the unborn, to life in all its phases.

As a Catholic, I have accepted certain answers as the right ones for myself and my family, and because I have, they have influenced me in special ways, as Matilda's husband, as a father of five children, as a son who stood next to his own father's deathbed trying to decide if the tubes and needles no longer served a purpose. As a governor, however, I am involved in defining policies that determine *other* people's rights in these same areas of life and death. Abortion is one of these issues, and while it is one issue among many, it is one of the most controversial and affects me in a special way as a Catholic public official. So let me spend some time considering it.

I should start, I believe, by noting that the Catholic Church's actions with respect to the interplay of religious values and public policy make clear that there is no inflexible moral principle that determines what our *political* conduct should be. For example, on divorce and birth control, without changing its moral teaching, the Church abides the civil law as it now stands, thereby accepting—without making much of a point of it—that in our pluralistic society we are not required to insist that *all* our religious values be the law of the land.

Abortion is treated differently. Of course there are differences both in degree and quality between abortion and some of the other religious positions the Church takes: abortion is a "matter of life and death," and degree counts. But the differences in approach reveal a truth, I think, that is not well enough perceived by Catholics and therefore still further complicates the process for us. That is, while we always owe our bishops' words respectful attention and careful consideration, the question whether to engage the political system in a struggle to have it adopt certain articles of our belief as part of public morality is not a matter of doctrine: it is a matter of prudential political judgment.

Recently Michael Novak put it succinctly: "Religious judgment and political judgment are both needed," he wrote. "But they are not identical." My Church and my conscience require me to believe certain things about divorce, birth control, and abortion. My Church does not order me—under pain of sin or expulsion—to pursue my salvific mission according to a precisely defined political plan.

As a Catholic I accept the Church's teaching authority. While in the past some Catholic theologians may appear to have disagreed on the

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morality of some abortions (it wasn't, I think, until 1869 that excommunication was attached to all abortions without distinction), and while some theologians still do, I accept the bishops' position that abortion is to be avoided.

As Catholics, my wife and I were enjoined never to use abortion to destroy the life we created, and we never have. We thought Church doctrine was clear on this, and—more than that—both of us felt it in full agreement with what our hearts and consciences told us. For me life or fetal life in the womb should be protected, even if five of nine justices of the Supreme Court and my neighbor disagree with me. A fetus is different from an appendix or a set of tonsils. At the very least, even if the argument is made by some scientists or some theologians that in the early stages of fetal development we can't discern human life, the full potential of human life is indisputably there. That—to my less subtle mind—by itself should demand respect, caution, indeed . . . reverence. But not everyone in our society agrees with Matilda and me.

And those who don't—those who endorse legalized abortions—aren't a ruthless, callous alliance of anti-Christians determined to overthrow our moral standards. In many cases, the proponents of legal abortion are the very people who have worked with Catholics to realize the goals of social justice set out in papal encyclicals: the American Lutheran Church, the Central Conference of American Rabbis, the Presbyterian Church in the United States, B'nai B'rith Women, the Women of the Episcopal Church. These are just a few of the religious organizations that don't share the Church's position on abortion.

Certainly, we should not be forced to mold Catholic morality to conform to disagreement by non-Catholics however sincere or severe their disagreement. Our bishops should be teachers, not pollsters. They should not change what we Catholics believe in order to ease our consciences or please our friends or protect the Church from criticism. But if the breadth, intensity, and sincerity of opposition to Church teaching shouldn't be allowed to shape our Catholic morality, it can't help but determine our ability—our realistic, political ability—to translate our Catholic morality into civil law, a law not for the believers who don't need it but for the disbelievers who reject it. And it is here, in our attempt to find a political answer to abortion—an answer beyond our private observance of Catholic morality—that we encounter controversy within and without

the Church over how and in what degree to press the case that our morality should be everybody else's, and to what effect.

I repeat, there is no Church teaching that mandates the best political course for making our belief everyone's rule, for spreading this part of our Catholicism. There is neither an encyclical nor a catechism that spells out a political strategy for achieving legislative goals. And so the Catholic trying to make moral and prudent judgments in the political realm must discern which, if any, of the actions one could take would be best.

This latitude of judgment is not something new in the Church, not a development that has arisen only with the abortion issue. Take, for example, the question of slavery. It has been argued that the failure to endorse a legal ban on abortions is equivalent to refusing to support the cause of abolition in the years before the Civil War. This analogy has been advanced by the bishops of my own state.

But the truth of the matter is, few if any Catholic bishops spoke for abolition in the years before the Civil War. It wasn't, I believe, that the bishops endorsed the idea of some humans owning and exploiting other humans; Pope Gregory XVI, in 1840, had condemned the slave trade. Instead it was a practical political judgment that the bishops made. They weren't hypocrites; they were realists. At the time, Catholics were a small minority, mostly immigrants, despised by much of the population, often vilified and the object of sporadic violence. In the face of a public controversy that aroused tremendous passions and threatened to break the country apart, the bishops made a pragmatic decision. They believed their opinion would not change people's minds. Moreover they knew that there were southern Catholics, even some priests, who owned slaves. They concluded that under the circumstances arguing for a constitutional amendment against slavery would do more harm than good, so they were silent. As they have been, generally, in recent years, on the question of birth control. And as the Church has been on even more controversial issues in the past, even ones that dealt with life and death.

What is relevant to this discussion is that the bishops were making judgments about translating Catholic teachings into public policy, not about the moral validity of the teachings. In so doing they grappled with the unique political complexities of their time. The decision they made to remain silent on a constitutional amendment to abolish slavery or on the repeal of the Fugitive Slave Law wasn't a mark of their moral indiffer-

ence: it was a measured attempt to balance moral truths against political realities. Their decision reflected their sense of complexity, not their diffidence. As history reveals, Lincoln behaved with similar discretion.

The parallel I want to draw here is not between or among what we Catholics believe to be moral wrongs. It is in the Catholic response to those wrongs. Church teaching on slavery and abortion is clear. But in the application of those teachings—the exact way we translate them into action, the specific laws we propose, the exact legal sanctions we seek—there was and is no one, clear, absolute route that the Church says, as a matter of doctrine, we must follow.

The bishops' pastoral letter, "The Challenge of Peace," speaks directly to this point. "We recognize," the bishops wrote,

that the Church's teaching authority does not carry the same force when it deals with technical solutions involving particular means as it does when it speaks of principles or ends. People may agree in abhorring an injustice, for instance, yet sincerely disagree as to what practical approach will achieve justice. Religious groups are entitled as others to their opinion in such cases, but they should not claim that their opinions are the only ones that people of good will may hold.

With regard to abortion, the American bishops have had to weigh Catholic moral teaching against the fact of a pluralistic country where our view is in the minority, acknowledging that what is ideally desirable isn't always feasible, that there can be different political approaches to abortion besides unyielding adherence to an absolute prohibition. This is in the American-Catholic tradition of political realism. In supporting or opposing specific legislation the Church in this country has never retreated into a moral fundamentalism that will settle for nothing less than total acceptance of its views.

Indeed, the bishops have already confronted the fact that an absolute ban on abortion doesn't have the support necessary to be placed in our Constitution. In 1981, they put aside earlier efforts to describe a law they could accept and get passed, and supported the Hatch amendment instead. Some Catholics felt the bishops had gone too far with that action, some not far enough. Such judgments were not a rejection of the bishops' teaching authority: the bishops even disagreed among themselves. Catholics are allowed to disagree on these technical political questions without having to confess.

Respectfully, and after careful consideration of the position and argu-

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ments of the bishops, I have concluded that the approach of a constitutional amendment is not the best way for us to seek to deal with abortion.

I believe that legally interdicting abortion by either the federal government or the individual states is not a plausible possibility and even if it could be obtained, it wouldn't work. Given present attitudes, it would be "Prohibition" revisited, legislating what couldn't be enforced and in the process creating a disrespect for law in general. And as much as I admire the bishops' hope that a constitutional amendment against abortion would be the basis for a full, new bill of rights for mothers and children, I disagree that this would be the result.

I believe that, more likely, a constitutional prohibition would allow people to ignore the causes of many abortions instead of addressing them, much the way the death penalty is used to escape dealing more fundamentally and more rationally with the problem of violent crime.

Other legal options that have been proposed are, in my view, equally ineffective. The Hatch amendment, by returning the question of abortion to the states, would have given us a checkerboard of permissive and restrictive jurisdictions. In some cases people might have been forced to go elsewhere to have abortions and that might have eased a few consciences but it wouldn't have done what the Church wants to do—it wouldn't have created a deep-seated respect for life. Abortions would have gone on, millions of them.

Nor would a denial of Medicaid funding for abortion achieve our objectives. Given *Roe v. Wade*, it would be nothing more than an attempt to do indirectly what the law says cannot be done directly; worse, it would do it in a way that would burden only the already disadvantaged. Removing funding from the Medicaid program would not prevent the rich and middle classes from having abortions. It would not even assure that the disadvantaged wouldn't have them; it would only impose financial burdens on poor women who want abortions.

Apart from that unevenness, there is a more basic question. Medicaid is designed to deal with health and medical needs. But the arguments for the cutoff of Medicaid abortion funds are not related to those needs. They are moral arguments. If we assume health and medical needs exist, our personal view of morality ought not to be considered a relevant basis for discrimination.

We must keep in mind always that we are a nation of laws—when we

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like those laws, and when we don't. The Supreme Court has established a woman's constitutional right to abortion. The Congress has decided the federal government should not provide federal funding in the Medicaid program for abortion. That, of course, does not bind states in the allocation of their own state funds. Under the law, individual states need not follow the federal lead, and in New York I believe we *cannot* follow that lead. The equal protection clause in New York's constitution has been interpreted by the courts as a standard of fairness that would preclude us from denying only the poor—indirectly, by a cutoff of funds—the practical use of the constitutional right given by *Roe v. Wade*.

In the end, even if after a long and divisive struggle we were able to remove all Medicaid funding for abortion and restore the law to what it was—if we could put most abortions out of our sight, return them to the back rooms where they were performed for so long—I don't believe our responsibility as Catholics would be any closer to being fulfilled than it is now, with abortion guaranteed by the law as a woman's right.

The hard truth is that abortion isn't a failure of government. No agency or department of government forces women to have abortions, but abortion goes on. Catholics, the statistics show, support the right to abortion in equal proportion to the rest of the population. Despite the teaching in our homes and schools and pulpits, despite the sermons and pleadings of parents and priests and prelates, despite all the effort at defining our opposition to the sin of abortion, collectively we Catholics apparently believe—and perhaps act—little differently from those who don't share our commitment.

Are we asking government to make criminal what we believe to be sinful because we ourselves can't stop committing the sin? The failure here is not Caesar's. This failure is our failure, the failure of the entire people of God.

Nobody has expressed this better than a bishop in my own state, Joseph Sullivan, a man who works with the poor in New York City, is resolutely opposed to abortion, and argues, with his fellow bishops for a change of law. "The major problem the Church has is internal," the bishop said last month in reference to abortion. "How do we teach? As much as I think we're responsible for advocating public policy issues, our primary responsibility is to teach our own people. We haven't done that.

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We're asking politicians to do what we haven't done effectively ourselves."

I agree with the bishop. I think our moral and social mission as Catholics must begin with the wisdom contained in the words "Physician, heal thyself." Unless we Catholics educate ourselves better to the values that define—and can ennoble—our lives, following those teachings better than we do now, unless we set an example that is clear and compelling, then we will never convince this society to change the civil laws to protect what we preach is precious human life.

Better than any law or rule or threat of punishment would be the moving strength of our own good example, demonstrating our lack of hypocrisy, proving the beauty and worth of our instruction. We must work to find ways to avoid abortions without otherwise violating our faith. We should provide funds and opportunities for young women to bring their child to term, knowing both of them will be taken care of if that is necessary; we should teach our young men better than we do now their responsibilities in creating and caring for human life.

It is this duty of the Church to teach through its practice of love what Pope John Paul II has proclaimed so magnificently to all peoples. "The Church," he wrote in *Redemptor Hominis* (1979),

which has no weapons at her disposal apart from those of the spirit, of the word and of love, cannot renounce her proclamation of "the word . . . in season and out of season." For this reason she does not cease to implore . . . everybody in the name of God and in the name of man: Do not kill! Do not prepare destruction and extermination for each other! Think of your brothers and sisters who are suffering hunger and misery! Respect each one's dignity and freedom!

The weapons of the word and of love are already available to us: we need no statute to provide them. I am not implying that we should stand by and pretend indifference to whether a woman takes a pregnancy to its conclusion or aborts it. I believe we should in all cases try to teach a respect for life. And I believe with regard to abortion that, despite *Roe v. Wade*, we can, in practical ways. Here, in fact, it seems to me that all of us can agree.

Without lessening their insistence on a woman's right to an abortion, the people who call themselves "pro-choice" can support the development of government programs that present an impoverished mother with the full range of support she needs to bear and raise her children, to have

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a real choice. Without dropping their campaign to ban abortion, those who gather under the banner of “pro-life” can join in developing and enacting a legislative bill of rights for mothers and children, as the bishops have already proposed.

While we argue over abortion, the United States’ infant mortality rate places us sixteenth among the nations of the world. Thousands of infants die each year because of inadequate medical care. Some are born with birth defects that, with proper treatment, could be prevented. Some are stunted in their physical and mental growth because of improper nutrition. If we want to prove our regard for life in the womb, for the helpless infant—if we care about women having real choices in their lives and not being driven to abortions by a sense of helplessness and despair about the future of their child—then there is work enough for all of us. Lifetimes of it.

In New York, we have put in place a number of programs to begin this work, assisting women in giving birth to healthy babies. This year we doubled Medicaid funding to private-care physicians for prenatal and delivery services. The state already spends \$20 million a year for prenatal care in out-patient clinics and for in-patient hospital care. One program in particular we believe holds a great deal of promise. It’s called “new avenues to dignity,” and it seeks to provide a teen-age mother with the special service she needs to continue with her education, to train for a job, to become capable of standing on her own, to provide for herself and the child she is bringing into the world.

My dissent, then, from the contention that we can have effective and enforceable legal prohibitions on abortion is by no means an argument for religious quietism, for accepting the world’s wrongs because that is our fate as “the poor banished children of Eve.”

Let me make another point. Abortion has a unique significance but not a preemptive significance. Apart from the question of the efficacy of using legal weapons to make people stop having abortions, we know our Christian responsibility doesn’t end with any one law or amendment. That it doesn’t end with abortion. Because it involves life and death, abortion will always be a central concern of Catholics. But so will nuclear weapons. And hunger and homelessness and joblessness, all the forces diminishing human life and threatening to destroy it. The “seamless garment” that Cardinal Bernardin has spoken of is a challenge to all Catholics in

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public office, conservatives as well as liberals.

We cannot justify our aspiration to goodness simply on the basis of the vigor of our demand for an elusive and questionable civil law declaring what we already know, that abortion is wrong. Approval or rejection of legal restrictions on abortion should not be the exclusive litmus test of Catholic loyalty. We should understand that whether abortion is outlawed or not, our work has barely begun: the work of creating a society where the right to life doesn't end at the moment of birth; where an infant isn't helped into a world that doesn't care if it's fed properly, housed decently, educated adequately; where the blind or retarded child isn't condemned to exist rather than empowered to live.

The bishops stated this duty clearly in 1974, in their statement to the Senate subcommittee considering a proposed amendment to restrict abortions. They maintained such an amendment could not be seen as an end in itself. "We do not see a constitutional amendment as the final product of our commitment or of our legislative activity," they said.

It is instead the constitutional base on which to provide support and assistance to pregnant women and their unborn children. This would include nutritional, prenatal, childbirth and postnatal care for the mother, and also nutritional and pediatric care for the child through the first year of life . . . We believe that all of these should be available as a matter of right to all pregnant women and their children.

The bishops reaffirmed that view in 1976, in 1980, and again this year when the United States Catholic Committee asked Catholics to judge candidates on a wide range of issues—on abortion, yes; but also on food policy, the arms race, human rights, education, social justice, and military expenditures. The bishops have been consistently "pro-life" in the full meaning of that term, and I respect them for that.

The problems created by the matter of abortion are complex and confounding. Nothing is clearer to me than my inadequacy to find compelling solutions to all of their moral, legal, and social implications. I—and many others like me—am eager for enlightenment, eager to learn new and better ways to manifest respect for the deep reverence for life that is our religion and our instinct. I hope that this public attempt to describe the problems as I understand them will give impetus to the dialogue in the Catholic community and beyond, a dialogue that could show me a better wisdom than I've been able to find so far. It would be tragic if we let that dialogue become a prolonged, divisive argument that destroys or

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impairs our ability to practice any part of the morality given us in the Sermon on the Mount, to touch, heal, and affirm the human life that surrounds us.

We Catholic citizens of the richest, most powerful nation that has ever existed are like the stewards made responsible over a great household: from those to whom so much has been given, much shall be required. It is worth repeating that ours is not a faith that encourages its believers to stand apart from the world, seeking their salvation alone, separate from the salvation of those around them. We speak of ourselves as a body. We come together in worship as companions, in the ancient sense of that word, those who break bread together, and who are obliged by the commitment we share to help one another, everywhere, in all we do, and in the process, to help the whole human family. We see our mission to be “the completion of the work of creation.”

This is difficult work today. It presents us with many hard choices. The Catholic Church has come of age in America. The ghetto walls are gone, our religion no longer a badge of irredeemable foreignness. This new-found status is both an opportunity and a temptation. If we choose, we can give in to the temptation to become more and more assimilated into a larger, blander culture, abandoning the practice of the specific values that made us different, worshiping whatever gods the marketplace has to sell while we seek to rationalize our own laxity by urging the political system to legislate on others a morality we no longer practice ourselves.

Or we can remember where we come from, the journey of two millennia, clinging to our personal faith, to its insistence on constancy and service and on hope. We can live and practice the morality Christ gave us, maintaining His truth in this world, struggling to embody His love, practicing it especially where that love is most needed, among the poor and the weak and the dispossessed. Not just by trying to make laws for others to live by, but by living the laws already written for us by God, in our hearts and our minds.

We can be fully Catholic; proudly, totally at ease with ourselves, a people in the world, transforming it, a light to this nation. Appealing to the best in our people not the worst. Persuading not coercing. Leading people to truth by love. And still, all the while, respecting and enjoying our unique pluralistic democracy. And we can do it even as politicians.

Human Lives, Human Rights

John J. O'Connor

NOWHERE ELSE has it been expressed more beautifully than in the 139th Psalm:

For it was you who created my being, knit me together in my mother's womb. I thank you for the wonder of my being, for the wonders of all your creation.

And perhaps no one ever captured the magic and the mystery of those words and reflected them more faithfully in his own life than did our late beloved Cardinal Terence Cooke.

It would be as absurd as it would be sad and unkind were this man, of all men, ever referred to as representative of an "ecclesiastical powerhouse." Powerful he was indeed in his gentleness, powerful in his personal spirituality, powerful in his love for every human being, the blind, the lame, the halt, the aged, the unborn, the poor, the wealthy. And never was he more powerful than on his deathbed, filled with suffering and seemingly helpless, like Christ on the cross. It was from that real "powerhouse" of pain in his waning hours, while preparing for his rendezvous with death, that he spoke most powerfully of life:

From the beginning of human life, from conception until death and at every moment between, it is the Lord Our God who gives us life, and we, who are his creatures, should cry out with joy and thanksgiving for this precious gift.

The "gift of life," God's special gift, is no less beautiful when it is accompanied by illness or weakness, hunger or poverty, mental or physical handicaps, loneliness or old age. Indeed, at these times, human life gains extra splendor as it requires our special care, concern and reverence. It is in and through the weakest of human vessels that the Lord continues to reveal the power of his love.

It is with deep gratitude to Cardinal Cooke for his powerful witness to the sacredness of all human life and with a sense of great personal privilege that I have announced that as of this day the board of Flower Hospital has unanimously determined to change the name to the Terence Cardinal Cooke Health Care Center, and as of this day forward the hospital shall be so named.

It is not totally foreign to our reasons for accepting Flower Hospital's

John J. O'Connor is the Roman Catholic Archbishop of New York. This article is the complete text of his address delivered at Cathedral High School in New York City on Oct. 15, 1984.

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offer to co-sponsor my address today that prior to Cardinal Cooke's assuming responsibility for the hospital it performed some 800 abortions every year. None, of course, has been performed since.

I was motivated to give this address under such auspices also because of the magnificent work the hospital carries out today for the least of God's little ones. I wish every New Yorker, indeed every American, could see the dedication, the professionalism, the personal commitment, the overpowering love demonstrated by doctors, nurses, administrators and staff toward the helpless, the brain-damaged, the other severely handicapped of all ages. Flower Hospital, now Terence Cardinal Cooke Health Care Center, is a rich blessing in our midst, a magnificent memorial to the sacredness of all human life.

I felt it appropriate as well to accept the offer of co-sponsorship of this address from the Institute on Human Values in Medical Ethics, initiated with funding from the Alfred E. Smith Memorial Foundation, at the instance of Cardinal Cooke, and from friends of New York Medical College, to deal with the moral and ethical issues of contemporary medicine in ways that support the value and the inherent dignity of all human life. I am grateful especially to Dr. John Connolly, president, New York Medical College and to Dr. Samuel H. Rubin, director, Institute of Human Values in Medical Ethics, New York Medical College.

A Nation's Enduring Heartache

Let me start by telling you the story of the man who puzzled his daughter when he told her that the day he had his heart attack was the happiest day of his life. And then he explained why.

"It is very simple, my child," he said. "I have witnessed so much death and suffering and survived it all. At times I wondered if I had a heart at all. This heart attack reassured me that I do indeed have one. For how can a man without a heart have a heart attack?"

The story is my favorite among the *Hasidic Tales of the Holocaust* told by Professor Yaffa Eliach of the Department of Judaic Studies at Brooklyn College.

The pain of the heart attack was reassuring to the man because it proved to him that he had not been hardened to human suffering by the experiences he had survived. He still had a heart!

There is a great deal of pain in our country today. I am not happy

about it, but I am encouraged by it. I am encouraged to believe that there is deep pain throughout the land in respect to a number of crucial problems. I believe, further, that this profound and pervasive anxiety is rooted in the reality that as a people we do have a heart—an enormous heart, a warm and generous heart, a heart that is experiencing a gnawing pain, an enduring heartache, if not an outright spiritual and emotional heart attack.

We know that we are doing so many things right as a nation, but we know too or we feel, a vague uneasiness and at times an acute anxiety that we are doing some things wrong—terribly wrong.

We know there is something wrong as we pass the bag ladies, the bag men in the streets. We know there is something wrong about gentrification that flushes lonely, elderly people out of homes and apartments with absolutely no place to go. We know there is something wrong when drugs control and destroy our neighborhoods, when we can't build prisons fast enough to meet the demand. We know there is something wrong when the most incredible pornography is defended as freedom of speech, when child abuse reaches horrifying proportions, when people are disenfranchised or exploited because of where they were born, or their sex or the color of their skin. We know there is something wrong in the sexual exploitation and violence that Father Bruce Ritter deals with every day right here in Manhattan and in the hopelessness of the burned-out buildings in cities all over the country.

We know there is something wrong in Central America, in the Middle East, in the north of Ireland, in Cambodia and in Poland, in much of the vast continent of Africa and elsewhere in the world. We know there is something wrong, something terrifyingly wrong, about the arms race and about the horrifying potential of nuclear weapons.

And all of this knowledge and more pains us, because we are basically a good people, a good and kind and merciful people. And the pain comes in knowing that we are doing some things terribly wrong and in either not truly wanting to right them or in not seeming to know how to right them. So, many of us—a great many of us—do what is very understandable: We try to forget the problems, to busy ourselves with a thousand legitimate preoccupations, to hope that someone else will solve the problems or that they will simply go away.

Like the bag people. We didn't put them on the streets. We don't want

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them on the streets. We can't understand why they are on the streets, we disbelieve how many are on the streets, we wish they would go away or someone would take them away. But in the meanwhile, particularly as we hustle to our own homes on bitter winter nights, we pass them by, and we know they are there, and the knowing pains us because we know simultaneously that somehow there has to be a better way.

I am deeply convinced that it is this same kind of uneasiness, this same kind of anxiety, this same kind of pain that we feel as a nation, knowing that we lose 4,000 lives every day through abortion. And that's a large part of the answer to the question people ask me all the time: Why is this front-page news all over the country? Why are people talking about it all over the world? No single statement by any one bishop—no series of statements by all the bishops combined—could have created the depth and the breadth and the intensity of feeling about this if it hadn't been there all along, stirring down inside us, gnawing at our hearts. You can't make an issue out of a non-issue. This one was there, long before a single bishop said a single word.

We know somehow, whatever our religious persuasion, that there is something wrong when 1.5 million unborn human lives are taken every year in our beloved country. We know that, whatever the reason, there must be a better way. We know that this magnificent country, with its incredible resources, its ability to put a man on the moon, the skill to transplant hearts, the heart to give our lives for the oppressed all over the world—this marvelous country must surely have a better answer to the violence of poverty than to inflict the violence of death on the innocent; it must surely have a better answer for the lonely, confused, frightened young woman, the teen-ager, the 10- or 11- or 12-year old pregnant girl, than to destroy the new life within her. Our nation must surely have more to offer a bewildered family than the money to help pay for a daughter's abortion. Our society must, surely must, have more support for the woman torn with conflict over a pregnancy than to point her toward an abortion clinic.

Is this simply a religious perspective? Is my grief over abortion born merely of what I have been taught as a Catholic? I can't believe that. I know that millions of Jews, Protestants, Orthodox, Moslems, people of many other religious persuasions and people who profess no religious faith at all grieve as I do over this destruction of life.

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Abortion: The Destruction of Life

Or is abortion not the destruction of life? Are we, in fact, not putting babies to death?

If we are not destroying human life, of course, then our concern, our anxiety, our pain over abortion virtually disappears. There is a dramatic difference between removing 4,000 pieces of tissue each day from the bodies of 4,000 women and taking the lives of 4,000 babies.

What is abortion then? Can we face that question honestly? Can we raise it without rancor, without accusation, without judgment or condemnation of anyone? Surely it is a crucial question. Surely it deserves an answer.

One of the very reasons I wanted to give this talk to an audience composed largely of medical people is that I believe that you in particular must ask and answer this question honestly. I turn to you and to your medical colleagues for what you and they have to say. I do not ask you or them to speak from religious beliefs. I do not ask you or them to determine at what point the unborn becomes a human person. I ask you and them to speak from your common-sense experience of human life and from the scientific evidence you observe.

I turn, for example, to Dr. Bernard Nathanson, the well-known Jewish obstetrician-gynecologist who identifies himself as an atheist. Dr. Nathanson's background is fascinating. By his own admission, he presided over 60,000 abortions in the first and largest abortion clinic in the Western world, the clinic he directed. He now calls those abortions 60,000 deaths. Here are his own words:

Sometime ago—after a tenure of a year and a half—I resigned as director of the Center for Reproductive and Sexual Health. The center had performed 60,000 abortions . . . I am deeply troubled by my own increasing certainty that I had in fact presided over 60,000 deaths.

There is no longer serious doubt in my mind that human life exists within the womb from the very onset of pregnancy, despite the fact that the nature of the intrauterine life has been the subject of considerable dispute in the past.

Electrocardiographic evidence of heart function has been established in embryos as early as six weeks. Electroencephalographic recordings of human brain activity have been noted in embryos at eight weeks. Our capacity to measure signs of life is daily becoming more sophisticated, and as time goes by, we will doubtless be able to isolate life signs at earlier stages in fetal development.

Dr. Nathanson now spends a large part of his life pleading against

abortion, not because of a religious conversion, but because of the evidence yielded by ultrasound scanning, intrauterine surgery, *in vitro* fertilization, and other advances in science and technology. Dr. Nathanson previously used the impersonal term *alpha* to describe what he now calls “the person in the womb.” Scientific findings have convinced him beyond a shadow of a doubt that “prenatality is just another passage in our lives—lives which commence with fertilization and end with death.”

Dr. Nathanson is far from alone. Indeed, the American Medical Association itself urged strict laws against abortion more than a century ago, simply because the scientific evidence said that human life begins at conception. In 1871 the AMA told its members that a fetus becomes animated long before quickening. Quoting from *Archbold's Criminal Practice and Pleadings*, it said this: “No other doctrine appears to be consonant with reason or physiology but that which admits the embryo to possess vitality from the very moment of conception.” No statement by the AMA in more recent times has contradicted the position it took then.

In our own day, miracles of modern science confirm what we have known all along—that life exists in the womb. Reporting on an article by Dr. Mitchell S. Golbus called “Healing the Unborn,” the 1983 Medical and Health Annual of the Encyclopedia Britannica says:

Prenatal medicine is now beginning to be able to intervene, before birth, to alleviate and even cure conditions that previously would have severely compromised the fetus. This promises survival for thousands of threatened lives . . . The concept that the fetus is a patient, an individual whose disorders are a proper subject for medical therapy, has been established.

But sadly all of our knowledge seems to have taught us very little. A famous article in the journal called *California Medicine*, written in 1970, concedes that life is present before birth, but warns physicians that if they want people to think that abortion is morally acceptable, they'll have to come up with a brand new language. Semantic gymnastics, they call it.

This was surely the attitude Sir William Liley had in mind when he lamented the direction that too many in the medical world and society in general have taken. Sir William, of the faculty of the Postgraduate School of Obstetrics and Gynecology of the University of Auckland, listed a series of developments that gave us new insights into the miracle of life before birth, and then continued:

For a generation which reputedly prefers scientific fact to barren philosophy, we

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might have thought this new information would engender a new respect for the welfare and appreciation of the importance of intrauterine life.

Instead, around the world we find a systematic campaign clamoring for the destruction of the embryo and fetus as a cure-all for every social and personal problem. I, for one, find it a bitter irony that just when the embryo and fetus arrive on the medical scene there should be such sustained pressure to make him, or her, a social non-entity.

Some evidence, however, does seem to make a profound impression on many medical and lay people as well. That's what happened when Congressman Lawrence J. Hogan saw some startling pictures, as he told a congressional subcommittee on constitutional amendments.

Until a few years ago, I really did not think much about abortion. It did not mean very much to me. I somehow equated it with birth control.

My brother, Dr. William Hogan, who . . . is with me today and is an obstetrician, had been trying to discuss abortion with me, but I kept putting him off, saying that it was not a popular political issue.

Finally, one day he came to my house and showed me some color pictures of what unborn babies look like. I saw what some people call a chemical reaction, sucking a thumb. I saw perfectly formed human babies just a few weeks from conception. I saw the pictures of the 21-week-old fetus, a little girl, who survived out of the womb. I saw other little babies who did not survive. Some were scalded red from saline solution which flushed them from the womb. I saw others torn apart from the machine, I could see a little foot and a little hand. I was stunned. I was shocked. And I was bitterly ashamed.

I did not know what I really thought abortion was. I just did not think very much about it. But certainly I did not think we were killing babies. How could I have been so stupid?

If we are not killing babies in abortion, what are we doing?

When discarded fetuses are found in the trash, why are we horrified? Why do we rebel when our highest court tells us that the matter of when life begins is constitutionally irrelevant? In the light of all that we know and in the name of sheer common sense, is it not because we are profoundly convinced that the unborn child is human? What can we possibly say except that we are putting to death 4,000 human beings every day—1.5 million every year.

Isn't there something wrong with this? Where does it all stop?

I know there are those who sincerely believe that abortion is an evil, but that not to have an abortion might be even worse. I know it, and my heart goes out to them. I know there are women and parents and young girls who are frantic about a pregnancy. They don't know which way to

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turn or what to do. They're under enormous pressure. Who can condemn them? Who can fail to understand all they're going through? Their abortions are still tragic; their babies are still put to death. But they think they're doing the right thing. Do I condemn them for feeling that way? No, never. I would do anything I could to help them pick up the pieces of their lives after an abortion.

The same is true of families, of parents who might abhor the idea of abortion, but when their own daughter is pregnant believe that unless she has an abortion her life will be ruined. There can be no question of the grief they feel, the conflict that rips at their very hearts, the deep suffering they endure in coming to a decision that an abortion is the only way.

But is it? Is it the only way? Is it the best answer we can come up with after these many centuries of civilization? What does it do to the woman herself, the young girl, the family?

I wish there were time to read to you some of the letters I have received from women who have had abortions or from families that encouraged or urged or even pressured them to do so. I am speaking of women and of families of all religious persuasions and of none. Many suffered for years. My own heart aches for them. I try to respond to the best of my ability, to offer them whatever help I possibly can. But in some cases, I fear, the wound never seems to heal. In my view, the tragedy in every such case is at least doubled: An innocent baby has been deprived of life; a woman has been deprived of peace of mind and heart, sometimes for the rest of her life. Indeed, in every such case there are at least two victims, the baby and the woman herself. In many cases the fathers of the baby aborted, the families involved, suffer terribly as well.

It is inevitably the woman, however, who is confronted most immediately and intimately with the terrible conflicts that can accompany a pregnancy and with the anguish of decision. We have no sympathy with the man who judges a woman's dilemma glibly or who detaches himself from the reality of the conflict and the suffering involved. Nor can we respect the man who walks callously away from his own obligations when confronted with a woman's unplanned pregnancy. Such, of course, is not always the case. It can happen that the father of an unborn baby who is deliberately aborted can suffer deeply.

One of the most poignant stories I have ever read was by a former CBS correspondent. Writing in the Los Angeles Times in March of 1976,

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he describes his joy when his wife told him she was pregnant, and his shock and fury when she told him she had already talked with several friends, had a doctor's name and intended to have an abortion. Shouting and pleading followed, with his wife insisting it was her body and should be her decision alone. Finally, he drove her to the doctor's office and waited in the car.

He tells the story 20 years later. Why? Because suddenly and unexpectedly he passed the corner of the doctor's office and it all came flooding back, and he found himself wondering over and over what might have been. By the time he arrived at his meeting, the tears were flowing and wouldn't stop.

"Whatever sort of person the lost one might have been," he writes, "I feel even now that we had no right to take his/her life."

"Religion has nothing to do with my feelings. It is a gut response—still so strong that it overwhelmed me" some 20 years later.

"Even now I find myself wondering about my first child that never was, and I wonder too about others in my shoes. How many men share my haunting feelings about children who might have been, but were denied? Why are we, the fathers who never were, so reluctant to talk about such feelings? If it is all so painful for us, how much worse must it be for the women who nurture and then give up the very fact of life itself?"

A sad story? Of course it is, and there are countless stories like it. I know that your hearts go out, just as mine does, to all those whose lives have been so tragically touched. I do not repeat the story to reawaken bitter memories or to revive buried guilt. On the contrary, I believe as profoundly as I believe anything in this world that God wants nothing more than to forgive whatever mistakes we have made and pleads with us to let him do so.

A Plea to the Medical Profession

But what of the future? Can we do more? Of course we can, all of us. And here I appeal particularly to you in the medical profession. I ask boldly that you help in at least three ways.

First, very simply, I ask you to think about the Hippocratic Oath. Ask yourself with absolute honesty what abortion really is. Test what is done to the unborn against the Hippocratic Oath many of you once took. You

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remember how it used to go: "I will give no deadly medicine to anyone if asked, nor suggest any such counsel; and in like manner I will not give a pessary to a woman to produce an abortion." And you know that the words about abortion are now so frequently omitted. Why? Why?

Second, teach us what we must learn about taking care of the whole person—the entire family, physically and emotionally. Teach us far, far more than we have been willing to learn to date about the critical importance of decent housing, of security in our streets, of the destructiveness of drugs. Teach us that good medicine requires that people need jobs, and meaningful jobs, to be able to hold their heads high, to feed, to clothe, to educate their children. Teach us that poverty is dangerous to our health, that malnutrition in mothers breeds disabilities in children. Plead for day-care centers, increased numbers of facilities for the handicapped. Raise your voices precisely as medical professionals to plead for a just social order indispensable to effective medicine. Teach that abortion is what it is, without pretense, but help bring about circumstances which will help a pregnant woman recognize that there is a better way for her than to have her own child destroyed.

Teach us above all, however, that you of the medical profession recognize the absolutely crucial role you play in regard to the entire issue of abortion. The overwhelming number of the 4,000 abortions carried out every day are carried out by members of the medical profession. What enormous power is yours, what leadership for life you could provide! Do you consider abortion your responsibility, whether or not you personally have ever been involved in or would be involved in an abortion? As the Holy Father reminded us recently when he spoke to a group of anesthesiologists, the responsibility extends to everyone in the medical field. For whatever my personal opinion is worth, I am convinced that the medical profession could change the entire picture of abortion in America and the world. Such is your influence, your prestige. Such is our dependence on you as nurturers and guardians of human life.

And third, here is a request as direct as I can make it: If it's needed to save the life of an unborn child, give your medical services without cost. I do not know how many abortions are performed free of charge, but I would like to believe that you and your colleagues would be willing to deliver live—and free of charge where necessary—every baby that would otherwise be aborted. I am certain that many of you do this already, but I

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urge you to make it widely known that you want to go out of your way to help, at no cost to the pregnant girl or woman in need.

And I appeal to you, our hospital administrators, boards and staff to provide free of charge, when necessary, all the medical care required for both mother and child.

My appeal is extended to those in the legal profession as well, to assist women and families, without charge when necessary, to learn what federal or state or city funding may be available to them and to help them in adoption processes, should they choose this route.

The Commitment of the Archdiocese

I can assure all of you, as I appeal to you, and I can assure every single or married woman facing an unplanned pregnancy that the Archdiocese of New York will give you free, confidential help of highest quality. Here are just some of the services the archdiocese will provide, whatever your religious affiliation. It makes no difference whether you are Jewish, Protestant, Catholic, Orthodox, Moslem, of any other religion or of no religion at all, or single or married—and your confidentiality will be completely respected.

You will get help with medical care and you do not have to worry about bills. If you have medical insurance, you may be able to use this. If you choose adoption, the adopting family is responsible for your medical bills. If you wish to keep your baby, your social worker will help you get Medicaid. There is no fee for our services to you.

Our social workers will make arrangements to meet you close to your home. They travel widely throughout New York, New Jersey and Connecticut. If you live in another state, we will help you get service from another agency or arrange for you to come to New York whenever possible.

If you cannot live at home during your pregnancy, other living arrangements can be made for you. The social worker we will provide you will suggest to you a variety of arrangements. You can choose the one best for you.

If you decide to keep your baby, your social worker will locate medical services, community resources, financial aid and support services to help you.

If you choose adoption, you will have a choice about the family with

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whom your baby is placed. Your social worker will give you profiles of approved couples on the waiting list. She will discuss these with you, but you make the selection. Let me say it simply and straightforwardly. The Archdiocese of New York is prepared to do everything in its power to help you and your unborn baby, to make absolutely certain that you need never feel that you must have an abortion.

A Plea to Those in Public Service

I have appealed to you members of the medical professions, to those of you in the legal profession and to those of you who may personally experience an unplanned pregnancy. May I now address all who hold or who seek public office and ask this: Commit yourself unconditionally to a just social order for all—to decent housing, to jobs, to the end of all discrimination, to the ultimate ending of the arms race. Do these things not for political gain, but out of respect for all human life. I've heard it said that those who plead for protection for the unborn are obsessed with a single issue. But what is that issue other than life itself? No one in public life would dare admit to being a racist or a warmonger. But suppose someone did? Would we be accused of obsession with a single issue if we challenged that position? And is any value that is threatened anywhere greater than life itself?

Why, then, is it argued that questioning a candidate about abortion is somehow unfair or unethical? Must a candidate or an officeholder explicitly support abortion? Of course not! He or she is free to tell the world:

I am not only personally opposed to abortion, but I intend to do everything I can within the law to bring about a change in the law. I do not believe in abortion on demand. I do not believe that the right to privacy overrides the right to life of an unborn child.

There's nothing unconstitutional about that. You have to uphold the law, the Constitution says. It does not say that you must agree with the law or that you cannot work to change the law.

What do we ask of a candidate or someone already in office? Nothing more than this: a statement opposing abortion on demand and a commitment to work for a modification of the permissive interpretations issued on the subject by the U.S. Supreme Court. It will simply not do to argue that "laws" won't work or that "we can't legislate morality." Nor will it do to argue, "I won't impose my morality on others." There is

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nothing personal or private in the morality that teaches that the taking of an unborn life is wrong.

And so I plead with you above all for the most innocent, those who have no voice of their own to cry out for your protection. Your personal belief is not an issue with me nor are your politics. Whether you hold political office or aspire to such, whatever your party, my appeal is precisely the same. I speak to elect no candidate, to reject no candidate.

There are critical needs in our society. All must be addressed on a continuing basis. None will go away overnight regardless of who holds public office at whatever level. Some needs are so crucial that they require absolutely the best leadership this country can provide. It is neither my prerogative nor my desire to determine who those leaders are to be. But I am passionately convinced that no need is more crucial than to protect the rights of the unborn. I can but pray that those who are chosen to lead us will do everything possible to protect those rights, for such, in my judgment, is the indispensable step in protecting the rights of all who cannot protect themselves—and one day that can be any one of us.

In a speech last April at Mount Saint Mary's College in Emmitsburg, Md., Speaker of the House Thomas P. O'Neill Jr. quoted the truly noble words of Sen. Hubert Humphrey that could be read as an ominous warning as well:

The moral test of government is how it treats those who are in the dawn of life, the children; those who are in the twilight of life, the aged; and those who are in the shadows of life, the sick, the needy and handicapped.

Abortion and the Law

Since 1973 some of the finest legal scholars in the United States have argued that the Supreme Court decisions were not solidly based on the Constitution, and one Supreme Court justice who dissented from the majority called the abortion decision an act of "raw judicial power." In other words, the will of seven justices was imposed on an entire nation.

Given this reality, when charges are so loosely made that those who plead for a recovery of legal protection for the unborn are trying to impose their will on the majority, it is apparently forgotten that virtually every state in the union had some kind of protective law which was swept away by the Supreme Court. If we are going to argue that law

must reflect a consensus, we must admit that there was a strong, national consensus against abortion on demand before the Supreme Court issued its decree that the unborn is "not a person whose life state law could legally protect."

There are those who argue that we cannot legislate morality and that the answer to abortion does not lie in the law. The reality is that we do legislate behavior every day. Our entire society is structured by law. We legislate against going through red lights, selling heroin, committing murder, burning down peoples' houses, stealing, child abuse, slavery and a thousand other acts that would deprive other people of their rights.

And this is precisely the key: Law is intended to protect us from one another regardless of private and personal moral beliefs. The law does not ask me if I personally believe stealing to be moral or immoral. The law does not ask me if my religion encourages me to burn down houses. As far as the law is concerned, the distinction between private and public morality is quite clear. Basically, when I violate other people's rights, I am involved in a matter of public morality, subject to penalty under law.

Is it outlandish to think that laws against abortions might have some protective effect? It is obvious that law is not the entire answer to abortion. Nor is it the entire answer to theft, arson, child abuse or shooting police officers. Everybody knows that. But who would suggest that we repeal the laws against such crimes because the laws are so often broken?

Of course we need far more education, and speaking in this high school auditorium I call upon our school administrators and teachers to carry out this responsibility. Of course we need far more love and respect and reverence for human life. Of course those churches that believe abortion to be sinful have the obligation to teach their adherents.

The National Conference of Catholic Bishops testified before the Senate in 1981, "We have no intention of asking the government to take over our own task of teaching moral principles and forming consciences." The testimony went on to argue, however, that the law has a critical teaching function. On this basis too we would appeal to those in public life who could do so much to help achieve modifications in the current laws.

Every American is brought up, ideally, to respect the law. We know that some individual laws are good, some bad, some just, some unjust, but it's the concept of law that we respect. We know laws are necessary

because we are all weak human beings, and while we may chafe under laws that are personally inconvenient to us, we know we must have laws or have chaos.

It is one of our proudest traditions that bad laws can be changed. There is no better example than the slave laws. And while many blacks still suffer in our country and are still far from enjoying all the human and civil rights due them by both moral and civil law, the reality is that if the 1857 Supreme Court decision in the famous Dred Scott case had been allowed to stand, they would still be legally slaves, non-citizens, forever unable to become citizens. In 1857, it was not enough for people of good will to call slavery wrong; it was absolutely essential that they call the law wrong and worked to change it.

We need only look at the mentality that has developed under current laws in recent years. An assistant district attorney argues in the case of the smothering of a newborn by her grandmother, "This is what you might call a two-minute abortion because the baby was unwanted." A Nobel Prize winner has suggested that parents should be given a period of three days after the birth of a baby to determine whether the baby should live or die. Physicians are asked to determine by amniocentesis and other means the sex of the unborn so that an abortion can be performed if the sex is not acceptable to the parents. We hear of trafficking in fetuses which are sold nationally and internationally for commercial purposes such as the manufacture of cosmetics. The judicial trend since 1973 has even allowed a court's ordering abortion for a mentally retarded or incompetent woman.

Why maintain laws against child abuse when abortion—the most violent form of child abuse in society—is protected as a right? Why have laws against racism when—as the 10 black Roman Catholic bishops of the United States recently charged—liberal abortion policies amount to another form of subjugation of poor black people.

Deeply as we feel the pain of the individual and aware as we are that many, many women have abortions because that seems to them their only choice, we cannot, we must not, treat abortion as though it were a matter of concern only to an individual woman or man or family. We are already seeing cruel signs of what an abortion mentality can mean for all society.

Again we ask how safe will the retarded be, the handicapped, the aged,

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the wheelchair, the incurably ill, when the so-called "quality of life" becomes the determinant of who is to live and who is to die? Who is to determine which life is "meaningful," which life is not? Who is to have a right to the world's resources, to food, to housing, to medical care? The prospects are frightening and far too realistic to be brushed aside as "scare tactics."

Father Hesburgh of Notre Dame phrases the issue well. "It is difficult to explain how a moral America, so brilliantly successful in confronting racial injustice in the '60s, has the most permissive abortion law of any Western country, recognizing virtually no protection for unborn human beings."

So we must change the laws. This is one reason why I am encouraged by Gov. Cuomo's calling for a task force to "take our highest aspirations and most noble pronouncements about life and seek to convert them into working laws and policies." I applaud such an objective vigorously as long as it is indeed pointed toward changing the current laws and as long as we forthrightly recognize that a task force can but recommend. We continue to look to our highest elected officials for leadership in bringing about those changes in current laws and policies so critically needed to protect every human life at every stage of its existence.

False Charges of Abortion Advocates: A Response

There is strong resistance by some to any change in the laws to make them less permissive or to reduce the possibility of "abortion on demand" (for that is the real issue). Some costly advertising campaigns are designed to discredit the "pro-life" movement.

Some pro-abortionists convey the impression that "masses" of women would die undergoing "back-alley" abortions if abortions were illegal. We are informed that this is not supported by figures issued by the U.S. government before 1973 nor following the 1979 cutoff of Medicaid funds for abortion.

Certainly rape is always a frightening possibility and a crime to be abhorred in every way. It is understandable that many would feel that an abortion should be justifiable if a woman or a young girl becomes pregnant through rape. We in no way minimize the horror and the trauma of rape.

Obviously, whether we are speaking of a thousand cases or one case, a

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woman's life, a family's future, can be virtually destroyed. But, as we have asked before, will violence against an unborn child compensate for the violence against the woman raped or will it in many cases simply increase her suffering? Is it at least possible that bearing a child, however, conceived, and either rearing it or offering it for adoption to the hundreds of thousands of couples pleading to adopt, might bring, even out of the tragedy of rape, a rich fulfillment?

Permit me to read you just one of the letters I have received from women who have been raped:

Twenty-two years ago I was raped. I had no home at this time. Some Sisters took me in when I became ill.

I could not give my daughter what she needed when my own life was so hard, so I let her go (for adoption).

Sixteen years later—without even knowing her name I found my daughter. My daughter and I are close friends. She is now married.

I tell you all of this because no matter how life was conceived, we are to stand firm in being thankful for the gift of life no matter what tragedy is connected with it.

Yes, it was a horrible experience to be raped. Yes, it was I who felt like the bad person. Yes, there was worry if my child would be healthy. Yes, I had no idea how I could take care of my baby. Yes, I was ashamed to be seen—so young and not married.

Still, I suffered through this nightmare that deeply affected me rather than have an abortion because of my deep reverence for all living creatures created by God. I wasn't a Catholic at the time and yet I knew what the truth was and still is. If I had taken my child's life before she was born, there wouldn't be a daughter telling her friends that she is proud of me for just being me.

The charge that the "pro-life" movement considers abortion a political decision, rather than personal and medical, is equally misleading. Certainly the lives of its future citizens are of concern to the "body politic." Appropriate political activity is both a right and duty for every citizen.

It is precisely concern for the personal that prompts us to exercise our right and duty to use the political process to try to bring about legislation that protects the right of every person, including the unborn. This is a far cry from asking our politicians to tell us what is morally good for us. We have no more desire to see politicians determine what is moral and immoral than we have to see such abortion decisions forced upon medical doctors.

There are also implications that the "pro-life" movement sees "birth control" and abortion as equal evils. These are, of course, grossly untrue.

Abortion destroys life already conceived.

Again, while anything is possible and therefore some groups or individuals somewhere may be attempting to have all contraception declared illegal, this is not the intention of the “pro-life” movement, whatever may be proposed by individuals within the movement. And it is certainly not an intention approved by the bishops.

Nor is the “pro-life” movement dedicated, as some critics imply, to a world without sex and the legitimate joys it can bring to those who engage in sexual activity responsibly in marriage. The church teaches very explicitly that married couples need not intend to conceive a child to enjoy the sexual relations of marriage, and those of our acquaintance in the “pro-life” movement share this belief. They see the sexual as beautiful, sacred, meaningful, joyous. They would add what some others might deny—that it must also and always be responsible.

Much of the argument of pro-abortionists is based on the assumption that the right to be born is dependent on being wanted. How many unplanned children have been born to parents whose attitudes changed completely to total acceptance and love? How many unwanted children have made enormous contributions to the world as musicians, writers, doctors, entertainers, teachers, parents or in other capacities?

But beyond such questions lies an even more basic one: Who can claim the right to be wanted? Does the Constitution guarantee such a right? Could the Congress legislate that babies are to be wanted by parents or that a husband is to be wanted by his wife, a wife by her husband?

When we speak of equal employment opportunity we don't argue that employers must personally want to hire given individuals. The law requires only that individuals not be refused employment because of a characteristic unrelated to the nature of the job, such as color. Is anyone arguing seriously today that an employee has a right to be wanted? Hardly. But certainly an employee has a right to life!

Is an unborn baby to be denied such a right? Is an unborn baby to be denied even the opportunity to have someone plead with a mother to let the baby live, wanted or not? Is the unwanted baby to be denied the opportunity given to millions of refugees who have been admitted into the United States?

Finally, we deeply regret any allegations that in arguing for the protec-

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tion of the unborn or in questioning the positions held by others, any of our bishops have encouraged violence in any form or have invited attacks on property. First, such charges take the spotlight off the basic violence of the deaths of 4,000 unborn every day. Second, in any movement involving millions of people the possibilities of reprehensible activity on the part of a minority—particularly a very small minority—are obvious. Such activity is to be abhorred. It has no place in a true “pro-life” movement. We reject it completely. Violence is not the answer to violence.

Responsibility of Catholic Bishops

I come finally to the questions that have been raised about the involvement of the bishops of the United States in the matters at hand and the allegations of undue intervention in the political process, including even the charge that in a programmed and conspiratorial fashion the bishops, or some of us, are trying to destroy the so-called wall between church and state; that the bishops are “perilously close” to threatening the tax-exempt status of their churches or, even more crudely, that the bishops are simply lusting for power.

What is actually going on? The bishops have been saying substantially the same thing about abortion for years. Likewise, for years the bishops have been challenging the state on a broad spectrum of laws and policies, economic, racial, social, military. Most recently the challenge was addressed to issues of war and peace, with the widely publicized formulation of the pastoral letter “The Challenge of Peace: God’s Promise and Our Response.” While much was made in that letter of nuclear war, even more was made—and has been little noted—of the causes of war, injustice, oppression, economic and other forms of violence and exploitation and indignities against the human person. It was not by accident that the bishops included in that document on war and peace the following:

No society can live in peace with itself or with the world without a full awareness of the worth and dignity of every human person and of the sacredness of all human life. When we accept violence in any form as commonplace, our sensitivities become dulled . . . Abortion in particular blunts a sense of the sacredness of human life. In a society where the innocent unborn are killed wantonly, how can we expect people to feel righteous revulsion at the act or threat of killing non-combatants in war?

What would those who criticize our speaking out during an election campaign have us do? Were those holding or seeking public office expressing explicit support for racism, for drug abuse, for pornography,

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for rape, for nuclear war, would we be expected to remain silent? Or would we be damned for doing so? Obviously, no one in or seeking office is calling for any of these.

Are we to be silent then on the question of abortion, if we are convinced that it is the taking of human life? Why would we be free to indict racism—indeed be generally applauded for doing so—but damned for indicting abortion? Why would we not be “imposing morality” on others when we oppose rape, but “imposing our morality” on others when we oppose abortion? What a strange democracy it would be that would encourage bishops to cry out their convictions as long as these were popular, but to remain mute when so ordered!

In his speech previously mentioned, Speaker O'Neill referred to the letter on national economic policy being drafted by the Catholic bishops of the United States, predicting that it will have “a dramatic impact on public debate in our country.” He cited critics who “say the church should stay out of economic issues . . . argue that religious concerns have no place in the marketplace . . . that the only thing that matters in the business world is personal drive and ambition; that the only thing that matters in the affairs of man is force of arms,” and he replied, “I believe that we who share Christian values have a responsibility to put those values into action—whether those values are popular or not, whether they are fashionable or not, whether they are high in the polls or not.”

As one who argued strongly on Labor Day of this year that the bishops have a strong tradition of addressing economic issues and the right and the obligation to do so, I am personally grateful to Speaker O'Neill for his statement applauding efforts to put values into action, whether or not they are popular, fashionable or high in the polls. In the same address he stated that “we must protect those people who cannot protect themselves.” I must assume that the Speaker would want to include all people, certainly those least able to protect themselves, the unborn, and would want to welcome the bishops into today's debate on this issue of critical public policy as well.

I am grateful too for a letter from Gov. Cuomo to the president of the National Conference of Catholic Bishops in 1983 in which he praised the bishops' pastoral letter on war and peace. As a member of the committee of bishops that formulated the pastoral letter I am proud of the governor's words:

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It would have been easy to compromise your position so as to offend no one. You chose instead to tend to your duties as shepherds, to teach the moral law as best you can. You can do no more.

Our church has sometimes been accused of not having spoken out when it might have. Now you, our bishops, show the courage and moral judgment to meet this issue of nuclear holocaust with a collective expression of where the church in America stands.

The pastoral letter on war and peace, of course, made much of a fundamental principle of moral law that we can never, under any circumstances, for any reason, deliberately and intentionally attack the innocent. Since the pastoral explicitly referred both to innocent civilians who must be protected in war and to the innocent unborn who must be protected in their mothers' wombs, I must assume also that the governor would have intended to include our protection of the unborn in his praise of the pastoral letter. I know, of course, that the governor welcomes the bishops into the debate on the subject. He has said so loudly and clearly.

I feel an obligation as a citizen to address issues of critical and moral import whenever opportunity is given me to do so within the framework of our political system. I have another obligation, however, that I can delegate to no one. The primary teacher of Catholic doctrine in any diocese is the bishop. As archbishop of New York I have the responsibility of spelling out for our Catholic people with accuracy and clarity what the Church officially teaches about all human life, the life of the unborn and abortion. I have simultaneously the obligation to try to dispel confusion about such teaching wherever it exists, however it has been generated, regardless of who may have generated it. It is easy to dismiss a bishop as narrow, rigid, ultraconservative, unfeeling, lacking in theological training or understanding, anti-feminist or guilty of a thousand other alleged charges for presenting this teaching exactly as it is, rather than as some might like it to be.

Church Divided?

But let no one be mistaken about the unanimity of this teaching on the part of the bishops. Those who would seek divisiveness between or among bishops do not understand the principles on which we stand. Those who would seem to suggest, for example, that the "consistent ethic of life" approach so well articulated by my good and valued friend, Cardinal Joseph Bernardin, archbishop of Chicago, differs in what it has to

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say about abortion from what others of us are saying, including myself, simply do not understand Cardinal Bernardin, or me or our mutual unconditional commitment to the life of the unborn and to life at every stage of its existence.

Those who would try to derive comfort from the “consistent ethic of life” approach by interpreting it to suggest that an officeholder’s or a candidate’s position on abortion does not matter so long as positions on other life issues are acceptable, miss the point of Cardinal Bernardin’s argument altogether. Indeed they distort the very essence of his argument.

So what does the Church really teach? Catholics the world over recognize the authority of the Second Vatican Council. Its teaching is as clear and unambiguous as anything could possibly be:

God, the Lord of life, has entrusted to human beings that noble mission of safeguarding life, and they must carry it out in a manner worthy of themselves. Life must be protected with the utmost care from the moment of conception: Abortion and infanticide are abominable crimes.

Pope Paul VI left no doubt. In his words:

To attack human life under any pretext whatsoever and under whatever form . . . is to repudiate one of the essential values of our civilization. In the very depths of our consciences—as each one of us experiences—we affirm as an incontestable sacred principle respect for every form of human life, life that is awakening, life that asks only to develop, life that is drawing to a close, life especially that is weak, unprovided for, defenseless, at the mercy of others.

The bishops of the United States have been equally clear and unequivocal. In 1970 they stated:

Our defense of human life is rooted in the biblical prohibition, ‘Thou shall not kill’ . . . The life of the unborn child is a human life. The destruction of any human life is not a private matter, but the concern of every responsible citizen.

Pope John Paul II has stated forcefully:

It is the task of the church to reaffirm that abortion is death, it is the killing of an innocent creature. Consequently, the church considers all legislation in favor of abortion as a very serious offense against primary human rights and the divine commandment, ‘You shall not kill.’

The declaration on abortion issued by the Vatican’s Sacred Congregation of the Faith and promulgated by Pope Paul VI in 1974, declared:

It must be clearly understood that whatever may be laid down by civil law in this matter (of abortion), one can never obey a law which is in itself immoral, and such is the case of a law which would admit in principle the liceity of abortion. Nor can one

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take part in a propaganda campaign in favor of such a law or vote for it. Moreover, one may not collaborate in its application.

So speaks the church. What do I mean here by “the church”? I mean what the average individual means when he or she asks, “What does the Catholic Church teach?” Such a question is not intended to ask what occasional theologians may speculate, or what any group of individuals who form organizations has to say or what one finds in letters to the editor or on Op Ed pages. Indeed it is sometimes these speculations and accusations and claims that lead people to ask, “What does the Catholic Church really teach?”

It has ever been the belief of the church and is no less so today that we must turn to the bishops, the teachers of the church, when we seek to discern the truths of our faith. The Second Vatican Council stated it simply and clearly, “By virtue of the Holy Spirit who has been given to them, bishops have been constituted true and authentic teachers of the faith.”

Church teaching on abortion is quite clear, regardless of allegations that it has changed through the years. Speculations on such questions as when the soul enters the body have changed as scientific knowledge has accrued. Church penalties for abortions have changed. The teaching about the grave immorality of abortion itself has never changed.

We hear a great deal about opinion polls and are frequently told that Catholics seem to approve of abortion in about the same percentages that other people do. There are several things wrong with such statements. Polling results depend in part on the knowledge of the persons polled; ignorance concerning the real nature of abortion and many of the so-called facts surrounding abortion is appalling. Unfortunately, some ignorance and confusion even seem to be provoked.

The main issue, however, is that polling results depend primarily on the way the questions are asked. Who would be prepared to ask, for example, “Under what circumstances would you feel justified in putting your unborn baby to death?” The fact is, that in poll after poll, only 25 percent of those polled support abortion on demand. Much abortion advertising would have us believe that an overwhelming majority would favor it. Even were such the case, however, Catholic teaching on morality is simply not determined on the basis of polls.

I recognize the dilemma confronted by some Catholics in political life.

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I cannot resolve that dilemma for them. As I see it, their disagreement, if they do disagree, is not simply with me; it is with the teaching of the Catholic Church.

Conclusion

I beg leave to add one further plea—that all women and men of good will try to open their minds and hearts to at least the possibility that we are unjustifiably taking 4,000 innocent human lives each day, regardless of whatever convictions they may hold to the contrary. I plead for the understanding that it is not the national effort to protect the unborn that is divisive; it is the destruction of the unborn that is divisive. And I plead for honest and open dialogue toward the goal of saving human lives.

As Father Hesburgh of Notre Dame has observed, tragically, in essence we may never again come to an agreement in our land that all abortion should be declared illegal, and some may passionately believe that exception should be made in cases of rape, of incest or truly grave threat to the actual physical survival of the mother. Whatever we may believe about such exceptions, however, we may know that they constitute a fraction of the abortions taking place, so that at the very least we can come to grips with what is the real and the frightening issue of the day: abortion on demand.

And so I come to the end of this long address—this personal pilgrimage, if you will—fearing I have said so little of what must yet be said and that I have said virtually nothing of what in the final analysis alone makes everything understandable—the indispensable power of love. Before leaving a recent visit to Flower Hospital, now the Terence Cardinal Cooke Health Care Center, I told the director of the hospital that I really need not give a speech at all. I need but ask the world to visit that hospital, to see not merely what doctors and nurses and staff are doing for their helpless patients, but what the helpless patients are doing for the doctors, the nurses and the staff.

The love those helpless ones generate in those who serve as their arms and legs and eyes and ears and tongues is more beautiful to behold than the most magnificent work of art in our own Metropolitan Museum. Except that such love is not a museum piece. It is vibrantly alive, pulsating through the corridors of that hospital and through the very being of those medical professionals and staff, women and men, literally giving

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their own lives every day that the least of God's little ones may not only live, but that in the depths of their beings, far removed from our sight and unfathomable by the most sophisticated techniques that science can devise, they, the helpless, may in turn love and teach us to love, who need so desperately to learn how.

And thus it can happen through the creative power of God's own mysterious love for each one of us, of whatever color, or creed, or background, or sex or personal beliefs—thus the miracle can happen in the strange design of that God who writes straight with crooked lines—that every child in this world, born or unborn, wanted or unwanted, with or without limbs or hearing or sight, nurtured lovingly or horrifyingly battered, abused and neglected, becomes not only what Mother Teresa of Calcutta calls something beautiful for God, but someone extraordinarily beautiful for every one of us, their brothers and sisters in the Lord.

Keeping God in the Closet

Henry J. Hyde

SOMEONE HAS REMARKED that this must be an election year: everyone's talking about theology. Suddenly we're hotly debating an issue we thought had been settled at the founding of this nation.

For Catholics the debate has a special interest. We engage in it not only as participants, but, in the minds of some people at least, defendants. Our citizenship is on trial. We are accused of "imposing our views" and "forcing our beliefs" on the community. Our bishops are accused of "violating the constitutional separation of church and state."

These charges have a triple purpose. First, they are designed to create the assumption that the whole question of legal abortion is a "religious" issue. Second, they are designed to create suspicion against Catholics who oppose abortion. But third, and worst of all, they are designed to make Catholics themselves afraid and ashamed to speak out in defense of the unborn. I'm sorry to say that these tactics have been succeeding all too well. Millions of people now take for granted that opposition to abortion can only be grounded in religious dogma; millions assume that Catholics are trying to import an alien doctrine on abortion; and many Catholics are timorously eager to placate potential hostility and bigotry by pleading that although they are "personally opposed" to abortion, they would never "impose their views" on anyone else. At the extreme we have the sort of Catholic politician of whom it's been said that "his religion is so private he won't even impose it on himself."

Today I'd like to begin by discussing some of the major questions that have lately arisen touching the relations between politics and religion. Later I'll conclude with a few words about their meaning for you and me as Catholics.

For I believe that we are now in a time of great testing, a time of arguments down to first principles. Whether the mass media's interest in the church/state debate withers over the next weeks and months, the

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debate itself will not go away. The questions it raises are too fundamental, and the choices among possible answers too important to the future of the American experiment, for this discussion to be resolved easily or quickly.

Since we are in for a long haul of it, I think it is important at the outset to decide just what it is we are arguing about. That has not been made entirely clear, by antagonists in the arguments and by reporters and commentators, over the past month. At times the discussion has become so obscure that it reminds us of Orwell's observation that ". . . the re-statement of the obvious is the first duty of intelligent men." And, I would add without partisan or ideological intent, of intelligent women. Please, then, permit me to begin by clearing out what seems to me to be some of the underbrush that has grown so luxuriantly around the religion-and-politics debate since the Republican National Convention.

In the first, and hopefully the most obvious, place, we are not arguing about the creation of a theocracy, or anything remotely approaching it. While there may be those on one end of the debate who would like to see the United States formally declare itself a "Christian nation"—just as there are those at the other end of the spectrum who would like to see the assumptions and judgments contained in the Humanist Manifestos achieve a constitutional, foundational status in our society—the vast majority of those arguing about the role of religious values in public policy do not want a theocracy in America; do not want one expression of the Judeo-Christian tradition (or any other religious tradition) raised up by government in preference to others, do not want to see religious institutions have a formal role in our political process. Any efforts along these lines would not only threaten the integrity of our political process; they would threaten the integrity of the Church.

This last point is worth dwelling on a moment, for it has been largely neglected in the recent debates. These have focused on the integrity of the political process, and not without reason: there have been several occasions where political leaders of both our major parties, in concert with some religious leaders, have given the impression that certain candidates were uniquely favored by God. This is, I think we all would agree, a step over a delicate line. But it is also a problem for the integrity of the Church. When the Church becomes too immediately identified with any particular partisan organization or agenda, it has lost a measure of its

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crucial capacity to be a sign of unity in a broken world; to be, as Richard John Neuhaus has put it, a “zone of truth in a world of mendacity.” Preserving the integrity of the Church should be, conversely, not only a matter of concern for believers, but for all who care about democracy. The Churches have played an extremely important role as bridge-builders in our diverse society, and we have every bit as much need of that bridge-building today as in previous generations. A Church that becomes identified as the “Democratic Party at prayer,” a charge laid against some liberal Protestant denominations, or as “the Republican Party at prayer,” a charge laid against some evangelical Protestant denominations, is a Church that is risking one of its essential societal roles: that of being ground on which we can gather, not as partisans but as men and women of goodwill, to consider our differences in the context of our common humanity.

So, then, for the sake of our democracy but also for the sake of the Church, let us have no hint or trace of theocratic temptations. We are, as our coinage and our Pledge of Allegiance asserts, a nation “under God”: that means that a nation under God’s judgment, constantly reminded by our smallest coin that the true measure of ourselves comes from beyond ourselves. Again, for the church as well as for democracy, let us preserve the integrity of both the political process and the Church.

In the second place, we are not arguing about whether “religion and politics should mix.” This formula, so simple, is also deceptive and disorienting. Religion, the expression of what theologian Paul Tillich called our “ultimate concern,” and politics have “mixed,” intermingled, shaped and influenced each other centuries before the conversion of Constantine. And this has been true of our American experiment as well. The claim that American religion has always been “intensely private . . . between the individual and God” would surely have come as news to John Winthrop and the Pilgrims, to Jonathan Edwards, to the Abolitionists, to Lincoln, to fifteen generations of the black Church, and not least to American Catholics taught by the magisterial John Courtney Murray, architect of the Vatican Council’s “Declaration on Religious Liberty.” Throughout our history, religious values have always been a part of the public policy debate. Religious values, particularly the Judeo-Christian traditions insistence on the inherent dignity and inviolable worth of each individual human life, lie at the root of what Murray called the “Ameri-

can proposition.” Yes, other influences shaped the Founders of our republic: Enlightenment modes of political philosophy played their important role, too. But, to borrow a phrase momentarily from the Marxists, “it is no accident” that Benjamin Franklin, one of the deistic Founders, proposed as a device on the Great Seal of the United States a picture of Moses lifting up his staff and dividing the Red Sea while Pharaoh was overwhelmed in its waters, with the motto “rebellion to tyrants is obedience to God.” Jefferson, often considered the most implacable foe of “mixing” religion and politics, countered with the suggestion that the Great Seal depict the children of Israel in the Wilderness, led by a cloud by day and a pillar of fire by night. From the outset of the American experiment, it was to Biblical imagery that the nation most often turned as it sought to understand the full meaning of *novus ordo seclorum*.

It is often objected that this resort to Biblical imagery has resulted in a false religiosity; a kind of hollow piety, symbolized by pre-Super Bowl prayers in the locker room. No doubt there have been Elmer Gantrys in our past, and there will be in our future. But who is more revealing of the essential character of the American proposition? Elmer Gantry? Or Lincoln in his desperate struggle to make sense out of the bloodletting of Civil War: a struggle which, again turning to Biblical images and values, yielded the immortal words of the Second Inaugural Address, with both its stark recognition of the sin that had brought immense suffering and its ennobling call to charity among both victors and vanquished?

Religion and politics have thus always “mixed” in America, if what we are talking about is religious values and public policy. What the Founders wisely understood was that religious *institutions* should not become unnecessarily entangled with the political process. From this understanding arose the twin principles of the First Amendment: no established Church, and no state coercion over religious belief and practice, within the limits of maintaining the public order. These principles, viewed skeptically for so long by a universal Church more accustomed to European usages, came to be enshrined in the Second Vatican Council’s “Declaration on Religious Liberty,” which was, in no small measure, the gift of American Catholicism to the church throughout the world.

The Constitutional separation of church and state is thus a question of institutional distinctiveness and integrity. It was never intended to rule religiously-based values out of order in the public arena. Yet that is pre-

cisely what some among us would do: disqualify an argument or a public policy from constitutional consideration if its roots are “religious.”

This brings us to the third misconception of the church/state debate.

The great bulk of commentary in recent weeks has been to the effect that the new church/state debate was caused by the rise of the religious new right, and its allies in the Catholic hierarchy. This is too simple an analysis, and fails to take the measure of a longer-standing phenomenon in our national life: the rise of a militant secular-separationist perspective on the constitutional questions that seek to rule religiously-based values “out of order” in the public arena. Let us be precise about the agenda being pursued here. The issue was not tuition tax credits. The issue was much more fundamental: the issue was whether any values that were explicitly religious in origin would be admitted to public consideration in the conduct of the public’s business. The “wall of separation,” according to these activists sundered not only religious *institutions* and the institutions of the state; it stood fast between religiously-based *values* and the debate over the public business. Any appeal to a religiously-based value to buttress an argument for this or that public policy option was thus a “violation of the separation of church and state.”

However, the application of this secular principle has been schizophrenic to say the least. The clergy were revered when they marched at Selma, joined anti-war sit ins and helped boycott lettuce—they are reviled when they speak out against abortion. Anyone who studies these subjects soon gets familiar with the double standard.

The secular-separationist wave had to crest eventually, though; since the overwhelming majority of the American people ground their public faith and lives in religiously-based values, a collision was inevitable. We are now living in the noise and confusion of that collision. The religious new right, composed largely of evangelical Protestants pushed to the margins of our culture and our politics since the days of the Scopes trial, kicked a tripwire reminding us that there could not be a permanent chasm between the values allowed into the public arena, and the religiously-based values of the American people.

The coalition that has formed between these evangelicals (who represent, from some estimates, as many as 60 million Americans) and Roman Catholics is both unprecedented and somewhat surprising. The two religious communities have had little prior contact, and what there has been

was cool if not outright hostile. There are, I think, at least two important reasons explaining some of this new coalitional activity. First, there have been significant changes within the evangelical community, both in terms of its own self-understanding and in its understanding of its relationship to Catholicism. It is no longer possible to equate the words “evangelical” and “fundamentalist,” for example. Many evangelicals are fundamentalists in their approach to Scripture, of course; but others are not. Some evangelicals harbor anti-Catholic bias; most do not. Anti-Catholicism is perhaps more, and certainly no less, predictable in certain cultural quarters of the secular-separationist world than it is among evangelicals. Most importantly, evangelicals saw themselves as coming in from the cultural and political wilderness, a process not unlike that of Catholic ethnics. They looked and saw an America deeply troubled by drugs, pornography, and abortion and determined to do something about it. From altered self-understanding came the possibility of altered ecumenical relations.

In addition to these momentous changes, Catholics began to react against the secular-separationist agenda. Catholics saw the confusion on the Supreme Court, which would allow state funds for books in parish schools but not for “instructional materials” such as maps. Catholics saw the crude caricatures involved in the use of stereotyped priests and nuns for advertisements, didn’t find much funny in “Saturday Night Live’s” Father Guido Sarducci, and wondered what was going on in the minds that could produce such images. But most importantly, Catholics experienced the hypocrisy of the abortion debate. They saw an issue of the utmost importance to constitutional first principles—who shall be within the boundaries of our community’s sense of obligation and protection?—dismissed as a “Catholic issue,” an unconstitutional “mixing of religion and politics.” We were accused of “trying to impose our religious values on others.” One can only absorb so much of this falsification, and then one reacts.

The principled resistance to “imposing one’s religious views” on a pluralistic society is a favorite ploy of the “I’m personally opposed to abortion but . . .” school of politician. Their dilemma is that they want to retain their Catholic credentials but realize that in today’s Democratic Party to be upwardly mobile is to be very liberal and to be very liberal is to be a feminist and to be a feminist is to be for abortion. I won’t quarrel

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with their political game plan, but their rationale is absurd.

First of all, abortion is not a Catholic issue, nor a Mormon issue, nor a Lutheran issue. It is an ethical issue that the Supreme Court (the same Court that opened the floodgates in 1973) has specifically found is “as much a reflection of traditionalist values towards abortion, as it is an embodiment of the view of any particular religion.” The Court also found in its decision of June 30, 1980 in *Harris v. McRae* that “. . . it does not follow that a statute violates the Establishment Clause because it happens to coincide or harmonize with the tenets of some or all religions. That the Judeo-Christian religions opposed stealing does not mean that a . . . government may not, consistent with the Establishment Clause, enact laws prohibiting larceny.”

In support of their spurious argument spurious analogies are necessary such as identifying abortion (which by definition and intention involves the destruction of innocent human life) with the issues of birth control or divorce which do not.

The distinctions are of transcendent importance because we’re talking about a basic human right, the first civil right, enshrined in our nation’s birth certificate where we are reminded that all men are created equal and are endowed by their Creator with certain inalienable rights—the first of which is life. Is the protection of this human right an impermissible religious intrusion?

Another way of expressing one’s reluctance to impose one’s values on a society is to require a consensus before supporting any changes in the law. You will note that this is a highly selective requirement applying only to abortion legislation. No consensus was demanded before adopting the Civil Rights Act of 1964 or Fair Housing legislation—these were right and their proponents helped *create* a consensus by advocacy and example and by understanding that the law itself can be an excellent teacher. No, when the cause was the abolition of slavery or the codification of civil rights the moral thing to do was to push for the changes and to help achieve the consensus which followed.

The whole notion of morality by consensus is a curious one. I’ve often thought that if Jesus had taken a poll He would never have preached the Gospel.

And so to argue, then, that the religious new right has “caused” this new church/state debate is to claim both too much and too little. Had the

religiously-based values of the great majority of American people not been systematically ruled out of order in public discourse over the past twenty years, there would have been no tripwire in the national consciousness to be kicked. Had Catholics not, concurrently, seen a matter of great importance to them categorically ghettoized as a “Catholic issue,” and thus an issue that ought not be treated in the public arena, there would have been no coalition between evangelicals and Catholics. That coalition may not last forever: but for the moment, it has been of sufficient weight to have forced to the surface of our public debate a set of arguments that has been going on, as a kind of subterranean civil war of cultures, for at least a generation.

The combination of passion and ignorance can be deadly, and so let us remind ourselves that we ought to argue these matters seriously without taking ourselves with ultimate seriousness; it suggests that we ought to make clear our opinions. May I do so briefly, bringing matters down from the theoretical to the practical: what should we do to facilitate a debate on religious values and public policy that strengthens the integrity of the Church and the political process?

I would suggest in the first place that we insist on rigorous intellectual consistency in these arguments. Not a few observers have noted that many of the same voices who hailed the American Bishops as “prophetic” when they tacitly endorsed the nuclear freeze now find the bishops “scary” when the issue turns to abortion. This is hypocrisy. The bishops have the clear right (and, in Catholic theory, responsibility) to make clear what they think are the appropriate moral criteria for forming and shaping public policy, on issues ranging from national security to domestic welfare policy to abortion. If the bishops enter the public arena to propound these criteria, they have an obligation to do so in language and imagery that is accessible to a pluralistic audience, and not just to Catholics. In our democracy, the bishops clearly have the right to go farther, and to suggest what in their prudential judgments the public policies most likely to meet the test of their moral criteria would be. In Catholic theory, the bishops’ prudential judgment is to be weighed seriously and respectfully; it is not weighted with the same gravity, however, as the bishops’ teaching about the normative moral framework that should guide public policy.

Thus, the Catholic theory about the teaching role of religious leader-

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ship. Such a model would seem appropriate for religious leaders of other denominations in a pluralistic democracy such as our own. This model protects both the constitutional right of the bishops as citizens to speak their minds about the public business; it also protects the integrity of the political process from unwarranted entanglements with religious institutions. Yet this model, which would seem to be the essence of reasonableness in a liberal, democratic society, is now under attack. At least one nationally syndicated columnist has suggested that the bishops had better mind their manners on the subject of abortion or the tax-exempt status of church property could be jeopardized: the threat of a bully, not of a man of justice, to recall Thomas More's reproach to Cromwell in *A Man for All Seasons*.

Here the question of consistency comes clear. Had the Archbishop of New York quizzed a conservative Catholic President about his commitment to nuclear arms control, would there have been impassioned hand-wringing at the New York *Times* editorial board about "mixing politics and religion"? Yet this is precisely what happened when the Archbishop of New York questioned a liberal Democratic candidate for Vice President about her approach to the public policy of abortion. Why is it that Archbishop O'Connor threatens the separation of church and state when he tries to clarify Catholic teaching about abortion, and the Rev. Jesse Jackson doesn't when he organizes a partisan political campaign through the agency of dozens of churches? These confusions are not merely a matter of anti-Catholic bias, although that is undoubtedly present; they reflect the chaotic condition of public understanding on the larger questions of religious values and the public policy debate.

I cannot think of a clearer illustration of this double standard than by quoting from a letter sent to Archbishop John R. Roach, then President of the National Conference of Catholic Bishops. This letter appeared in the New York Diocesan newspaper, *Catholic New York*, on July 7, 1983:

As an American and a Catholic I am proud of you. It would have been easy to compromise your position so as to offend no one. You chose instead to tend to your duties as shepherds, to teach the moral law as best you can. You can do no more. Our church has sometimes been accused of not having spoken out when it might have. Now you, our Bishops, show the courage and moral judgment to meet this issue of nuclear holocaust with a collective expression of where the Church in America stands.

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This letter was signed by the present Governor of New York, Mario Cuomo.

Churches as institutions should not play a formal role in our political process, both for the sake of their own integrity as well as the integrity of our politics. Church leaders, on the other hand, have every right to make publicly clear their views on both specific issues and, more importantly, on the moral norms that should guide our approach to those issues. If religious leaders are ruled constitutionally out of bounds in these debates because they make explicit reference to the religious basis of the values they see as normative, then an unconstitutional, illiberal act of bigotry has taken place. And what does this say about our devotion to pluralism?

Moreover, all religious leaders should be held to the same standard (i.e. no institutional entanglement, but full play for the appeal to religiously-based values in arguing public business). Black and white, Protestant, Jewish, and Catholic: all should stand under the same standard, all should observe the same limits. The obverse of this delimitation of roles is that public officials must take all possible precautions to avoid even the appearance of giving the state's favor to one expression of the Judeo-Christian traditions over others. In my view, there is nothing unconstitutional or inappropriate in a president making clear his or her understanding that religious-based values have had, and will continue to have, a crucial, formative role in our democratic experiment. If Washington, Lincoln and Roosevelt could do so, why not Ronald Reagan? The bounds of sensitivity are crossed, however, if and when a president seems to give public favor to one denomination or sect over others. No more than any other citizen can we expect a president to put his conscience into the closet during his or her term of office. We can expect that all presidents will hold to the distinction between religious institutions and religious values in framing their approach to these questions.

Consistency is one antidote to hypocrisy. So, too, is a theory and practice of pluralism that meets the twin tests of constitutional integrity and religious liberty. All of us have heard it said recently that the new church/state debate is a threat to American "pluralism." That it could be, were it a debate about the establishment of a theocracy. But since it is not, it is worth observing that the contemporary nervousness over threats to "pluralism" has the issue precisely backwards. According to the secular-separationist orthodoxy, so often reflected in the national media, it

is the overt appeal to religiously-based values in the public arena that threatens pluralism. In fact, it is much more likely that it is precisely the religious convictions of the majority of Americans that sustain our democracy's commitment to religious liberty, including the freedom not to believe. Our democratic experiment's commitment to pluralism is not sustained today by abstract allegiance to the Enlightenment; it is sustained by fundamental themes in the Judeo-Christian tradition, particularly that tradition's insistence on the inviolability of individual conscience. To drive religiously-based values out of the public arena is the real threat to pluralism. A commitment to pluralism, like any other significant commitment, must be sustained by a frame of reference that transcends the here and now; or as Chesterton put it, "An open mind, like an open mouth, should close on something."

For a public arena shorn of the religiously-based values of the American people would not remain empty for long. The values vacuum is filled by the raw pursuit of interests, and politics deteriorates into the mere quest for power in its most base form; the capacity to thwart others. The church/state debate upon which we are now engaged is, from one angle of vision, a debate over whether a "civil war by other means" (as Alasdair MacIntyre has put it) will break out with real ferocity, or whether it can be healed through the creation of a new public philosophy, able to provide moral coordinates for the conduct of the American experiment in ways that can be followed by both religious believers and their non-believing fellow-citizens.

American Catholics are in a privileged position to make enormously useful contributions to the development of such a public philosophy. We are the inheritors of a two thousand year old tradition of careful thought about the relationship between personal conscience and public policy. We do not come to the complexities of these issues as Biblical literalists, or as philosophical naifs; and our natural law tradition provides a means for mediating religious values into the public arena in a publicly accessible way. The bedrock principles of Catholic social ethics—personalism, pluralism, and the common good—are all notions eminently suitable for incorporation into a revived public philosophy in America. The Catholic principle of subsidiarity is also relevant to today's political culture, and holds out the prospect of being one of those bridge-concepts that sets common ground between ideologically divided foes. Catholics

know, in their ethnic bones, the truth of Walter Lippman's observations that "Liberty is not the natural state of man, but the achievement of an organized society." No institution in the Western world has more experience with the tough questions of societal organization than the Roman Catholic Church; no institution in America has benefited more from the conduct of the American experiment than American Catholicism. Might I suggest that it is time for American Catholics, particularly Catholic intellectuals, writers, and public officials, to begin making a distinctively Catholic contribution to this preeminent task of reconstituting an effective public philosophy capable of sustaining the future of the American proposition? Might I also suggest that considerably more material will be found for such a task in the writings of John Courtney Murray than in a dozen volumes extolling "Marxist analysis"?

All government is compulsion unless the whole nation unanimously agrees on a given proposition. Absent this (and it's nearly always absent) some people's views will be imposed on others. Our ideal has been to minimize the compulsion and to utilize persuasion. But this requires, as Joseph Sobran calls it ". . . an ethos of fair and civil discussion." It is a sad fact that too many liberals, normally eloquent champions of free speech, by misrepresenting the nature of this issue and the goals of the pro-life movement, have eroded that ethos. They have literally told us to go sit in the back of the bus.

The role of Catholic public officials in the important task of revitalizing American politics through the free market of religious competition intended by our Founding Fathers deserves some brief reflection.

The Catholic public official, like his Catholic fellow-citizens, ought not come to this discussion under a cloud of suspicion. It is well to think back to the example of John F. Kennedy before the Greater Houston Ministerial Association; but the terms of the fundamental debate have shifted dramatically since 1960. The question today is not whether a Roman Catholic commitment is compatible with American public office; the question is whether the American experiment can survive the sterilization of the public arena that takes place when religiously-based values are systematically ruled out of order in the public discourse.

It is ironically the same Catholics who were once suspect on the grounds of their discomfort with pluralism who now have an opportunity to help reconstitute an American pluralism in which there is space for

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religiously-based values in the public arena. As Catholic public officials, we do not come to the public debate on church/state matters with a scarlet “C” sewn to our breast.

The National Conference of Catholic Bishops, in its recent statement on the church/state debate, correctly noted that a Catholic public official cannot finally sunder personal conscience and civic responsibility. Most of us would, I hope, subscribe to that teaching. The discussion gets more interesting, and more difficult, when we try to define with precision just what the positive responsibilities of the Catholic public official are, particularly when he or she is called upon to enforce a law with which they are in conscientious disagreement, be that a capital punishment statute, or the abortion liberty as defined by the Supreme Court in *Roe v. Wade* and subsequent rulings.

Since the abortion issue is so often the centerpiece of these arguments, let me address that briefly.

It is clearly insufficient for a Catholic public official to hold that his or her personal, conscientious objection to abortion as a matter of personal choice for himself or herself ends the matter. As Stephen Chapman says, it doesn’t make sense to say an abortion takes a life *and* it should be allowed. If a fetus represents a human life, its disposition cannot be a strictly private matter. It is just as clear that Catholic public officials must abide by their oath of office to enforce the laws. But what else ought we to do?

First, we ought to make use of the educative potential of public office to make clear that abortion is not, at bottom, a “Catholic issue,” but rather a moral and civil rights issue, a humanitarian issue and a constitutional issue of the first importance. The abortion liberty, we should insist, is a profoundly narrow-minded, illiberal position; it constricts, rather than expands, the scope of liberty properly understood. It draws in, rather than expands, the community of the protected. These are, or ought to be, issues of concern far beyond the American Catholic community. Our approach to the problem of profligate abortion must be couched in terms like these, publicly accessible and understandable terms.

Second, we ought to do everything in our power to make abortion a less-immediate resort for the bearer of an unwanted child. This will involve, as others have suggested, government support for adoption services and for health care during pregnancy, to cite but two examples of

positive governmental intervention into this problem. But it should also involve serious and careful reconsideration of a welfare system that currently rewards pregnancies out of wedlock, and that has contributed to the erosion of the family structure among the poor. The Catholic commitment to a social ethics in which consequences (not merely intentions) carry moral weight suggests that we examine our public conscience on the ways by which we have tried to meet the needs of the weakest among us, and ask whether or not these efforts have not in some circumstances actually contributed to the problems they were intended to solve.

Those who point out that solving the abortion issue through constitutional and/or legal action involves prudential judgments on which Catholics may in good conscience disagree are correct in their basic assertion. They may even be correct in their claim that there is no effective public consensus at present capable of sustaining a constitutional prohibition of abortion. But the *status quo* need not remain forever, and we cannot in conscience be satisfied with a *status quo* in which one and a half million children are killed every year, no matter how sympathetic we may be to the personal tragedies involved when parents take the decision to abort their offspring. The duty of one who regards abortion as wrong is not to bemoan the absence of a consensus against abortion, but to help lead the effort to achieve one. Catholic public officials have, in my judgment, a moral and civic obligation to clarify precisely what is at stake in the abortion controversy (and not only for the unborn child, but for the moral-political health of the American experiment); we have a moral and civic obligation to help disentangle this fundamental question of constitutional protection from the confusing sound of rhetoric involved when “separation of church and state” and feminist ideology are brought into the debate; and we have a moral and civic obligation to create structures in society that make the first resort to abortion in the case of unwanted pregnancy less likely. Ultimately, as Professor John Noonan has said so eloquently, the abortion liberty must be overcome “in love.” But between now and then, there is much we can do in addition to declaring the state of our personal consciences.

It has been said here recently that Catholics in their own belief and behavior don’t differ significantly from the rest of the population on the issue of legal abortion. I hope that isn’t quite true. But there is at least some truth in it, as all of us must admit.

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And yet there is another side of this fact: it means that the pro-life movement itself is no more Catholic than non-Catholic. It gives the lie to the charge that we are trying to impose a uniquely Catholic position.

When the great wave of Catholic immigration to America occurred in the nineteenth century, Catholics didn't import pro-life attitudes. These were already here. The several states had passed their own laws restricting and prohibiting abortion, for reasons that had nothing to do with Catholic teaching.

This was the consensus, not only of the United States, but of all civilized people. *Abortion was wrong*. The Supreme Court didn't express a new consensus in 1973; it attacked the consensus that already existed, by striking down not only the most restrictive but *even the most liberal* abortion laws then in existence. It informed the legislatures of all 50 states that they were all, in diverse ways, violating the Constitution. None of those legislatures, Republican or Democrat, conservative or liberal, had ever understood the Constitution properly. The consensus was wrong, even at its permissive margin. So said the Court.

The Catholic Church has introduced nothing foreign or novel. It has merely been the most important institution to insist on the moral consensus the Court assaulted. It has spoken in harmony with many non-Catholics.

Samuel Johnson once observed, "Mankind more frequently requires to be reminded than informed." That is all we are doing: at a time when the moral consensus of the West is under assault, we are reminding this nation of its traditional membership in that consensus. That is what moral authority is for: not to introduce doctrinal novelties, not to compete for power with those who currently hold power, but to remind the powerful of the moral limits of power. True authority is not a rival but a moral yardstick of power.

I am not referring here to the teaching authority of the Church as such: I'm talking about the authority of moral law in the experience of all mankind, the moral law written in our hearts, the moral law without which it is nonsense to speak of "rights."

Catholics neither have nor claim any monopoly of that law. We do have a duty to maintain it, and to be willing to stand up to speak for it when the state violates it. This is a duty wholly distinct from our duty to propagate our faith. The Gospel is the good news; but the moral law is

not news at all, it is what we know in our hearts already.

The abortion issue is at once the hardest and the most typical case involved in the whole complex area of religiously-based values and public policy. It is the hardest case because of the depth of feelings involved on all sides, and because of the fantastic obfuscation that has grown around the issue since *Roe v. Wade*. It is the most typical case because the furor surrounding it illustrates graphically the condition of a public arena deliberately shorn of religiously-based values; we have lost the ability to conduct moral arguments in the public arena, because we have no agreement on the coordinates that should guide and shape such debate. This means that the abortion issue cannot be resolved under the conditions of what Richard Neuhaus has called the "Naked Public Square." Until we re-establish the legitimacy of an appeal to religiously-based values in the conduct of the public debate over the public business, the abortion debate will remain a case of barely-restrained "civil war carried on by other means." Thus our essential difficulty, and the debate surrounding it, are not the result of a new intervention by the Catholic hierarchy into the political affairs of the nation. The truth may be precisely the opposite; that the bishops' entry, coupled with the rise of evangelical Protestantism, has brought about a critical mass of dissatisfaction with the secular-separationist perspective in its commitment to the maintenance of a public square uncontaminated by religious values. Turning that dissatisfaction into the positive reconstruction of a public philosophy capable of sustaining the American experiment into its third century is a noble task to which all of us are called.

Especially called are you, the students of Notre Dame. Father Theodore Hesburgh, in an address to the faculty in January 1982, said:

Obviously, we are swimming against the current when we profess the eternal and the spiritual to an age completely caught up in temporal and material concerns. It is not easy to engage in intellectual inquiry in the context of the Christian message in a world that often rejects the Good News. How to teach students to cherish values, prayer, grace and eternal life when they are surrounded by a sea of vice, unbelief, cynicism, and anomie, all dressed up to look sophisticated and modern, something they mostly aspire to be . . . Moral relativism gives us a society that is only relatively moral and we are sick of that, very sick indeed.

On this campus the Governor proposed a hypothetical case:

"Put aside what God expects—assume if you like there is no God—then the greatest thing still left to us is life," he said.

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That remark misses a point of terrifying importance, a point that was made by Professor Paul Eidelberg:

Unless there is a Being superior to man, nothing in theory prevents some men from degrading other men to the level of subhuman.

The age of Dachau and Auschwitz and the Gulag verify Eidelberg's insight. How many times must we learn that, when moral values are excluded from the public square, raw force alone settles the issue?

I have always believed that the purpose of a Christian education is to help us *change the world*. I have never heard a commencement address admonish graduates to "go out there and *don't* change the world"!

No matter what the failings and fears of our fellow Catholics, no matter how far short we ourselves may fall at times, we have the duty to speak out. To fail to speak, to bear witness to our commitment, is not the virtue of prudence: it is self-serving expediency.

We need not wait for our bishops to speak out. We can and must do it ourselves. The most helpless members of our society need us. Don't fail them! Don't be afraid to speak! Don't let anyone make you ashamed to stand up as a Catholic for all human beings! Loving people who can't love you back is no small thing! And after you have encountered all the ambiguities, syllogisms and sophistries, and after the last hair has been split, don't let them make you ashamed to be a Catholic!

And forgive some unsolicited advice, but you will find it awfully hard to go anywhere in the world without your soul tagging along. And you needn't be too deferential if someone tells you a pre-born baby's life is too trivial to protect. You might remember that, while this is the age of abortion, it also is the age of Dachau and Auschwitz and the Gulag.

St. Ambrose said, "Not only for every idle word must man render an account, but for every idle silence."

Charles Peguy has said, "If you possess the truth and remain silent you become the accomplice of liars and forgers."

Elie Wiesel, who survived Auschwitz, has said, "Apathy towards evil is man's greatest sin."

And so—do you change the world or does the world change you?

A man sent me a letter some time ago that he had received from perhaps the most famous of our Senators—the Senator's letter is dated August 3rd, 1971. It contains the following language: "While the deep

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concern of a woman bearing an unwanted child merits consideration and sympathy, it is my personal feeling that the legalization of abortion on demand is not in accordance with the values which our civilization places on human life. Wanted or unwanted, I believe that human life, even at its earliest stages, has certain rights which must be recognized—the right to be born, the right to love, the right to grow old . . .

When history looks back to this era it should recognize this generation as one which cared about human beings enough to halt the practice of war, to provide a decent living for every family, and to fulfill its responsibility to its children from the very moment of conception.”

A beautiful statement—in 1971. But today that Senator, a prominent Catholic, does not support our legislation and hasn't for the 10 years I've been in Congress. He's repeatedly voted to use tax funds to pay for abortions, and yet if he would assume the leadership of our movement we would prevail. Believe me, one person can move mountains!

The day before he was assassinated in 1968, Dr. Martin Luther King, Jr. reflected out loud with an audience about the times in which he lived. And he said, “If I were standing at the beginning of time, with the possibility of a general and panoramic view of the whole of human history up to now, and the Almighty said to me, ‘Martin Luther King, which age would you like to live in?’ . . . I would turn to the Almighty and say, ‘If you would allow me to live just a few years in the second half of the Twentieth Century, I will be happy.’ Now that's a strange statement to make because the world is all messed up. But I know, somehow, that only when it is dark enough, can you see the stars.”

And so I ask again, do you change the world or does the world change you?

There was a “Just Man” many centuries ago who tried to save Sodom from destruction. Ignoring his warning, mocking him with silence, the inhabitants shielded themselves with indifference. But still he persisted and taking pity on him, a child asked, “Why do you go on?” The Just Man replied that in the beginning, he thought he could change man. “Today,” he said, “I know I cannot. If I still shout and scream it's to prevent them from changing me!”

I hope you go out and change the world!

The Cuomo Thesis

Francis Canavan

WHAT DOES ONE HAVE to do to get the attention of the Democratic Party? Apparently one must take a mallet and hit it between the eyes. It is, after all, a donkey.

Archbishop John J. O'Connor of New York seems to have hit the donkey squarely between the eyes when he said on television last June, "I don't see how a Catholic in good conscience can vote for a candidate who explicitly supports abortion." The remark would apply, of course, to candidates of any party, and there are pro-abortionists in the Republican as well as the Democratic ranks. But it is the Democrats who have put a pro-abortion plank in their platform, and it is Democratic Catholic politicians who, stung to the quick, have made the major replies to the archbishop.

Gov. Mario Cuomo of New York delivered the most carefully reasoned of these replies in an address at Notre Dame University on September 13. Like other Catholic politicians he fell back on the "personally opposed, but . . ." line. He does not personally favor abortion, he just does not think it is the function of government to prohibit it, or limit it, or discourage it. Government in fact, he feels, should facilitate abortion by providing funds for women who are too poor to pay for their abortions, since to deny them funds "would burden only the already disadvantaged."

This position raises once again the question of the meaning of "personally opposed, but . . ." At a deeper level it raises the question of the meaning of morality. There is in law an old distinction between things which are *mala quia prohibita*—evil because they are prohibited—and things which are *prohibita quia mala*—prohibited because they are evil. Given the nominalism that is so deeply embedded in our culture, Americans have a pronounced tendency to regard all morality, and the morality of abortion in particular, as a set of rules about actions which are *mala quia prohibita*—wrong, but only because they are prohibited. For

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Catholic nominalists, the wrongness is defined by the laws of the Church, but not by the inherent evil of abortion.

Gov. Cuomo is too sophisticated to subscribe to this crude and simple-minded nominalism. Quite the contrary. He and his wife, he explained at Notre Dame, never used abortion because “we thought church doctrine was clear on this, and more than that, both of us felt it in full agreement with what our own hearts and our own consciences told us.” So far as his own conscience is concerned, then, abortion is prohibited because it is antecedently evil.

It is a distinct question, however, he said, “whether to engage the political system in a struggle to have it adopt certain articles of our belief as part of the public morality.” At this point a certain amount of fog begins to envelop the governor’s words. There is, he recognizes, a public morality, and this recognition is certainly an advance over the position of those who tell us that all morality is private because it is subjective and idiosyncratic. But when we come to the question whether abortion is properly an issue in public morality, the governor refers to anti-abortion views as “certain articles of our belief.”

It is not that Gov. Cuomo is always reluctant to impose his moral beliefs on others. When the legislature of the State of New York, by majority votes in both houses, reinstated the death penalty, he vetoed the act; presumably if it is ever enacted over his veto, he will grant executive clemency to criminals condemned to death under it. He has praised the American Catholic bishops for the moral leadership they have given the nation in their pastoral on nuclear weapons. He advocates raising the drinking age to 21 in order to reduce the number of highway deaths caused by drunken teenage drivers. It is not necessary either to agree or disagree with his stands on these matters to notice that they all rest on judgments about the value of human life and are, moreover, controversial.

Abortion, however, is different. “The arguments start,” as Gov. Cuomo explained, “when religious values are used to support positions which would impose on other people restrictions that they find unacceptable.” But what are “religious values”? It is a remarkably vague term, carrying connotations of mysticism and realms of belief that transcend unaided human reason. But there is nothing particularly mystical or religious about abortion. We all know well enough what it is and what it does,

however much we may disagree about the desirability and permissibility of doing it.

Abortion kills and is intended to kill. None of us would be alive today if we had been aborted. Whether or not we define abortion as killing a person, whether or not we call abortion murder, abortion would have killed us. Not some set of alien and non-human beings, but *us*. The lives abortion would have ended would be *our* lives. At however early a stage of our fetal development we had been aborted, we would have been dead, as the Irish might say, for the rest of our lives.

Now, on any list of the legitimate purposes of civil government, the protection of human life surely stands high. That which snuffs out human life at its beginning, as abortion does, raises an issue, not only in private morality, but in public morality and therefore ultimately in law. Whatever resolution people may think law should give to this issue, it cannot be banished as an issue in public morality merely by talking about “religious values” and “the separation of church and state.”

The issue is moral, and does not cease to be so because a church has a teaching about it, and it is public, and does not cease to be so because people disagree over it. There is a clear Catholic belief about abortion, but it bears on an issue which in itself is one of public morality. Argument on the issue in the public forum cannot be foreclosed by pleading with Catholics, as Gov. Cuomo did, to stay out of it.

He was on sounder ground when he said that the object of his criticism was not “what we Catholics believe to be moral wrongs,” but “the Catholic political response to those wrongs.” As he explained,

Church teaching on abortion and slavery is clear. But in the application of those teachings—the exact way we translate them into political action, the specific laws we propose, the exact legal sanctions we seek—there was and is no one, clear, absolute route that the church says, as a matter of doctrine, we must follow.

Or, as he had said earlier in his speech, “it is a matter of prudential political judgment.”

The governor could have quoted Edmund Burke: “It is no inconsiderable part of wisdom to know how much of an evil ought to be tolerated.” On second thought, however, that statement might not have served his purpose, since he advocates nothing short of complete legal toleration of this particular evil, to the point of regarding it as a positive advantage, denial of which is a “burden” on the already disadvantaged.

But let us take it that when Gov. Cuomo speaks of “what we Catholics believe to be moral wrongs,” he does not refer to theological no-nos, but to what we honestly believe to be genuine human evils, things that are bad for human beings, such as, to be precise, killing them before birth. It is still a matter of prudential political judgment what we can and should try to get the law to do about it.

In forming our prudential judgment, we must begin by being clear in our own minds that when we tolerate an evil, it is still an evil, not a positive good or a basic human right. To what extent it can be limited in a given social context may be an open question, but at least it should be limited rather than expanded or defended as untouchable.

In the case of abortion, moreover, we are dealing with a social evil and a massive one. *Time*, a journal not known for its opposition to abortion, described the scale of abortion in this country in its April 6, 1981 number:

Since *Roe v. Wade*, the annual number of abortions performed in the U.S. has risen from 744,600 to 1.5 million. Abortions last year terminated one-third of all pregnancies in the nation. More than a million teenagers became pregnant, and 38% had abortions.

On a later page, the magazine called abortion “the most frequently performed operation in the U.S.” Abortion on that scale (and the number of abortions has not diminished since 1981) may reasonably be judged to constitute a social problem to which a political response is appropriate.

A political response inevitably involves public officeholders and candidates for public office, and this understandably disturbs Gov. Cuomo. He maintains, rightly, that the Church should not and does not tell him what course of political action to follow, but leaves it to his prudential judgment. Nonetheless, prudence, being a moral virtue, operates within moral limits, and we may make some statements on the limits within which an officeholder will operate if he really regards abortion as a human, therefore moral, evil.

First, however, to clear away one little piece of sophistry, the officeholder’s oath to uphold the Constitution is not an oath to agree with the opinions of the U.S. Supreme Court. If that were not so, we should have to accuse a long line of distinguished Democratic presidents, from Thomas Jefferson through Andrew Jackson and Franklin D. Roosevelt, of violating their oaths of office. We should have to say the same of that great-

est of Republican presidents, Abraham Lincoln, not to mention a good number of justices of the Supreme Court itself.

To return to the moral question, the officeholder who sees abortion as a genuine evil will at least refrain from promoting it, facilitating it, or encouraging it. Given the limitations which the Supreme Court imposed on government in *Roe v. Wade*, no officeholder can stop abortions from being performed. But the same Court also held in *Harris v. McRae* (448 U.S. 297) that government is not obliged to subsidize abortions, and this gives the officeholder some constitutional scope for exercising his moral judgment.

Moral judgment, however, is what Gov. Cuomo wants to keep out of the question of abortion and the law. He agrees that abortion is wrong, in itself and not merely because the Catholic Church says so, but this for him is only a principle of private morality. His thesis is that no effort should be made to reintroduce it into public morality. His reason appears ultimately to be that making it an issue of public morality is divisive of the body politic. It certainly makes some Catholic politicians uncomfortable, but we must credit the governor with having deeper concerns than that. He is thinking of the good of the community.

There is in the mainstream of our Western political and legal tradition no universal mandate to translate all moral norms into legal ones, and Catholic thinkers throughout history have understood that. Public moral and legal norms derive their purpose and their justification from the good of the community, not from the private welfare of individuals as such. Norms of private morality need not become norms of public law.

So, for example, a law imposing "prohibition" on persons under 21 years of age might not be justified if it were intended only as a means of improving their personal moral characters. But it might well be justified as a means of protecting the community from young drunken drivers. The lives that such a law would save would be, of course, the lives of those individuals who would otherwise have found themselves in the path of drunken drivers and been killed. But since the community is composed of individuals whose lives are a constituent element of the common good, it is the community, and not only individuals, that would be protected by the law. Some such reasoning must also lie behind laws requiring the wearing of seat belts in cars, even though the lives immediately at stake are only those of the individuals who are obliged to wear the seat belts.

Similarly, then, one can reasonably argue that a law regulating, limiting, or even prohibiting abortion is a means of protecting the community from attacks, not only on the lives of individual unborn children, but on that basic human good of life, sharing in which is the most fundamental bond of community. We must ask ourselves, simply as a matter of social philosophy, what sort of community we have when we grant a license to kill, even if it is limited to killing human beings while they are very small and still in the womb.

One could answer that this argument assumes that the community is agreed that in the matter of abortion we are dealing with the basic human good of life and Gov. Cuomo's point is that in fact the community is not agreed. "We create our public morality through consensus," he says, and the consensus is no longer there. On this point several comments are in order.

First, the consensus that supported the abortion laws that were in force in the several States only 20 short years ago did not fade like a dew in the glare of progressive public enlightenment, but suffered a violent assault at the hands of the U.S. Supreme Court in 1973. The Court tried to short-circuit a recently begun and developing controversy over the abortion laws by taking the abortion issue out of politics. The Court thereby prevented the American people from arriving at such resolution of their differences as they could have achieved through the democratic process.

Secondly, those who believe that abortion is not the subject of a religious taboo but an objective human wrong have the right and the duty to try to restore the consensus that once existed, and which may still exist to a greater extent than pro-abortionists care to admit. To do this, anti-abortionists must address the public conscience of the American people. But the most effective—perhaps the only effective—way to engage the conscience of the people is to raise the issue in the public, political forum.

Most of us, most of the time, do not think until we have to think, and we do not have to think about any public issue until someone sets a proposal before us on which we must act one way or the other. Public issues usually are not debated until there are proposed public measures to debate.

Thirdly, if we were to take Gov. Cuomo's advice and accept the present state of the law in regard to abortion, we would not have achieved a stable agreement among the American people to disagree quietly and

peaceably on questions of public morality. The situation, as they say in military circles, is fluid and will remain so for the foreseeable future.

If the abortion question were allowed to die as a legal and political issue, the same progressive forces that gave us abortion on demand would move on to the next item on their agenda, which is the legalization of euthanasia, beginning with infanticide. Then the fight would flare up again. We would hear the same liberal voices telling us not to impose our beliefs on others, not to inject religion into politics, not to breach the wall of separation between church and state. But they would no more succeed in stabilizing the relationship between law and morals than they did in previous rounds of the same fight.

It cannot even be said that the previous rounds are fully finished or ever will be. The laws in this country, as Gov. Cuomo pointed out, “protect people’s right to divorce,” and “their right to use birth control devices.” Must we strive to repeal those laws and replace them with an absolute ban on contraception and divorce? No, it would be very unwise and therefore, with respect to the common good, wrong to try to do so. But must the American people forever accept those laws as they now stand? The answer to this question, too, is no.

The famous Sexual Revolution wrought by the equally famous Pill has not been so resounding a success that we must look upon it as definitive and irreversible. A future generation may question both the consequences of widespread promiscuity and the notion that making contraceptives ever more widely available to persons of all ages and states of life is the remedy for them.

Five years ago the New York *Times* remarked in an editorial, “Today, half of all marriages break up.” To the *Times*, that fact was only a reason for changing the Social Security system to make better provision for divorced women. But a future generation may be moved to think about tightening the divorce laws—and be undeterred by bleats about “imposing your beliefs on others.” The relationship between law and public morality, in regard to both contraception and divorce, is not fixed forever. Pendulums swing in both directions, and citizens are free to push them in either direction.

The current controversy over abortion is but one consequence of an ongoing moral revolution in this country and in the West generally. The revolution consists in a ceaseless effort to replace the ethic that has histor-

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ically been the foundation of Western civilization with a new, individualistic, and utilitarian ethic. This new ethic denies any meaning in human life other than what human beings choose to give it and any norms for living other than those that human beings choose to live by.

We see the revolution at work in the constant undermining of such ideas as the natural difference between the sexes, the institution of monogamous and lifelong marriage, the natural transmission of human life, and the sanctity of life itself. Its tactic is to decry any defense of the centuries-old incorporation of these ideas in law as imposing the beliefs of some on others.

Gov. Cuomo is correct in asserting that effective resistance to this revolution must finally depend upon the consciences of individuals and families, formed by sound moral teaching, and that such teaching is the function of churches and other institutions rather than of government. But he is simply unrealistic in suggesting that Catholics—and, by implication, all other adherents of the traditional morality—should abandon the field of law and politics to the revolutionaries in the name of pluralism. One ethic or the other will determine our public morality and its reflection in law. If one side quits, there is no doubt but that the other side will win. Even a donkey should be able to understand that.

An Open Letter to Governor Cuomo

Joseph Sobran

Dear Gov. Cuomo:

Thanks for sending me the full text of your Notre Dame address. I watched you deliver it on television, but I must say I hardly recognized the speech you gave from the newspaper excerpts I read the next day.

You refer disparagingly in your address to “simplistic” approaches to abortion. *Touché*: I’m afraid I’m incurably simplistic. You say you’re no theologian. Well, neither am I.

Last month, a couple of hours after you and I chatted on the phone, an old doctor I know dropped by my office. He is a pathologist at a city hospital. His work requires him to examine tissue passed along to him after surgery. He brought some pictures he had taken.

Most of them were photos of a male child who had been killed and dismembered in his mother’s womb on August 10, in about the sixth month of her pregnancy. Each photo showed a different part of him. One was a piece of his face: the tip of his nose, the septum, half the left cheek, and the upper lip. Another showed what had been his skull; I wouldn’t have known it as a skull, except that there were two blue eyeballs beside it. A third photo showed the lower left leg and a blue tangled tube I assume was his intestine. A fourth showed the left arm, with bone and tendon exposed where it had been torn out of the socket; the hand was limp, the fingers slightly flexed, as if poised to close on something.

I told you I’m no theologian. It didn’t take much theology to understand these pictures. I reacted about the same way I’d have reacted before I was a Catholic: I just stared at them. I knew this sort of thing goes on, and I knew the state of New York, like many states, pays doctors to do it, but it was still hard to believe.

Not that it was a highly emotional experience. Just the opposite. All my emotions were very still. It didn’t seem to make much difference what I felt, or whether I felt anything. Outrage would have seemed as hollow as nonchalance. I just kept staring until it sank in.

Joseph Sobran wrote this Open Letter for The National Committee of Catholic Laymen (New York, N.Y.), which first published it in late 1984; it is reprinted here with permission.

THE HUMAN LIFE REVIEW

I still keep those pictures around, to remind me of what I'm talking about all the time. Men do that for a few hundred dollars within minutes of my office. The pictures don't make me angry. They just make me feel I'm not doing enough, and they prevent me from getting too subtle or clever or bitter about the abortion "issue."

I almost sent you copies of those pictures, but I thought you might imagine I was just trying to make you ashamed. To show them for that sort of effect would have been wrong, and self-defeating, and I wasn't sure they'd have quite the same effect on you, under the circumstances, that they had on me.

But the desired effect would have been to fix the starting-point in your mind: *This is what we're really talking about.* That's all. Set aside religion, and politics, and constitutional law, and all other theoretical and practical questions. These come into play later. First you have to be absolutely simplistic. You have to see the thing in itself. Then you can start thinking about it.

A certain amount of this sort of thing happens whether there are laws against it or not. That's true of any form of behavior, from mass murder to drinking. A lot depends on whether the law is felt to be morally legitimate.

This is where your speech troubles me. You insist on treating abortion as a purely "Catholic" issue; you argue that our "pluralistic society" would disagree with the Church; you even say Catholics don't differ much in attitude or practice from non-Catholics.

All these arguments seem designed not just to prove that a law prohibiting or restricting abortion would fail, but to help *insure* failure. You virtually deny that such a law *could* be legitimate; and if it's ever passed, your words can be cited to abet defiance. You say there is no consensus against abortion, and then seem to work to prevent such a consensus from forming.

Since you say we should employ "persuasion, not coercion" against abortion, I'd expect to find you using your great persuasive and exemplary influence to give witness to your commitment. Instead you scold the Church: "Physician, heal thyself." (As I watched your speech, a friend remarked that this was just what the South said to the North in defense of slavery and segregation.)

You speak as if the Church were determined to pass her own kind of

blue law, like a sect that would forbid the whole population to do something it disapproved of—dancing or playing cards. But it isn't just because we see abortion as a "sin" that we would prohibit it; we know well enough that law can't make people virtuous, and we know that not every moral law can be a civil law too.

Even I had heard of prudence, though I haven't always practiced it. But as I understand it, prudence applies more to the application than to the enunciation of principles. Whether or not we forbid abortion, we have to condemn it. You continue to be equivocal about this. My own sad conviction is that the Catholic politicians you mention have been practicing not prudence but expediency on the issue. Prudence advances the good itself by accepting compromises, not by capitulating. Expediency is merely self-service.

I don't mean to be too severe about your motives here. But I have to be frank, and I can't accept the excuses we hear from Catholic leaders who aren't giving Catholic leadership. In genuine compromise, both parties gain. But what has the pro-life side gained from this prudence?

"To assure our freedom," you say, "we must allow others the same freedom, even if occasionally it produces conduct by them which we would hold to be sinful." You've often made an analogy between the Sabbath observances of Orthodox Jews and Catholic opposition to abortion. But the analogy doesn't hold. Orthodox Jews don't seek to impose their Sabbath discipline on non-Jews; they do oppose legal abortion. Catholics don't try to impose Friday abstinence on non-Catholics; they do oppose legal abortion. As I've said before, there is a clear distinction between ritual disciplines binding only members of one faith, and universal moral obligations binding all. It is the difference between abstaining from meat and abstaining from murder.

Now there is a widespread confusion about the meaning of "sin." Some believers think the divine law itself is a sort of divine whim, and that God's will itself can be merely willful. On this view, God could have commanded, "Thou *shalt* kill," and we would have been obliged to bump each other off. By implication, all divine injunctions are equally arbitrary and are applicable to all circumstances without distinction. This is of course naïve; in the theological realm it means fundamentalism, and it corresponds to positivism in the secular legal realm. It implies that mere will can be the source of right.

The natural law tradition expresses a different view. It holds that for God to make rational creatures and then to enjoin them to kill each other would have been a self-contradiction, metaphysical nonsense. On this view, sin itself is ultimately nonsense, not mere disobedience to specific commands.

It follows that we can know right from wrong, to a great extent, without the aid of revelation. Revelation confirms reason and sometimes goes beyond it, but never contradicts it. That is why the right-to-life movement is able to appeal to a shared moral sense and not merely to authority, much as we respect “the teaching authority of the bishops.” Plenty of pro-life people reject the authority of the bishops; some also reject Scripture.

So it’s a misstatement to say that the Church seeks to “impose our views” or “force our beliefs” on others, as if this were an ordinary contest of wills. Anti-Catholic forces may speak that way for their purposes, but you and I shouldn’t. The columnist Carl Rowan accuses the bishops of being actuated by “a lust for power.” He could say this while applauding your speech.

What we are trying to do is to promulgate rules of conduct. At the human level, rules are altogether different from commands. Rules are general and impersonal; they bind everyone alike. They don’t specify a purpose; they leave wide latitude for individual purpose. It more often says what not to do than what you must do. The philosopher Michael Oakeshott has an interesting way of expressing it: he says a rule imposes “adverbial conditions” for action without mandating any particular substantive action. Speed limits don’t tell us where to go; they just tell us not to go too fast. The rule “Do not kill” may be translated “Do as you like, provided you don’t do it murderously.” “Do not steal” means “Do as you like, but not larcenously.” And so forth.

But commands really are impositions of will. They are specific and positive: “go to the store and get some eggs”—that makes one person the agent of another’s will and purpose—it tells him exactly what to do, not how, “adverbially,” to do it. We abide by rules; we obey commands.

The enemies of the right-to-life movement have carefully singled out the Catholic Church as their *bête noire*, appealing to the vulgar idea that the Church wants to impose its will on non-Catholics. Their whole scare campaign depends on the confusion between different orders of impera-

tives. As they confuse rules of conduct with commands, so they also confuse power and authority. In America every traffic cop has more coercive power than an archbishop. But authority is a different kind of thing entirely. Power merely acts; authority “authorizes.” Authority is a check on power. The United States is “authoritarian” rather than democratic in that every vote or legislative act is subject to the authority of the Constitution, which specifies and limits what the polity can do at any moment. When there is no authority, there is only raw power. When those in power are identified as oracular authorities (like Hitler, Stalin, and Mao), there is totalitarianism.

That is why even atheists should value strong religious institutions which act as custodians of an authority that serves (however wrongly sometimes) as a yardstick for those currently in power. A Bible or a Koran can be abused, but at least it can’t easily be revised to suit the interests of today’s *Fuhrer*. A permanent deposit of moral authority can even embarrass religious leaders who are unfaithful to it. Every society needs this sort of tradition in some form, and it is invidious to social peace when moral and religious authorities are cynically represented as mere contestants in the power game. For that reason you are right to insist that the bishops should not engage in partisan politics (as they agree); but for that very reason it’s unfortunate that you use the same phrases as the Church’s enemies about “imposing” views and beliefs, phrases which imply that the Church or her members seek power as ambitious men do.

Your argument at several points implies that Catholics who oppose legal abortion are acting in violation of religious toleration and even the Golden Rule; and that it is in their own self-interest to desist. “I protect my right to be a Catholic by preserving your right to believe as a Jew, a Protestant, or non-believer, or as anything else you choose,” you say. “We know that the price of seeking to force our beliefs on others is that they might some day force theirs on us.”

But this is to mix up action and belief. Nobody is trying to force conversions. You might better say, “I protect my right to live by protecting the lives of the most vulnerable.” But it isn’t really a matter of pure self-interest, any more than the Golden Rule is. We are safe from abortion; so are our own children. But others aren’t. It is unfortunate that you should choose words that suggest that something as unselfish, as chari-

table, as the right-to-life movement is nothing but a Catholic power-grab.

You were reported to be angry when a newspaper reported your speech under the headline “Cuomo Vs. the Church.” But that in essence was how the story was reported by papers more friendly to you and more hostile to the Church. Reading the New York *Times*’ excerpts from your speech, one would infer that you were simply telling the Church where to get off. This was an injustice to you, but it must be said that the *Times* has been playing you off against the Church for months now, and I don’t think you’ve protested at all.

After all, what’s the cash value of the speech? “Cuomo Bids Catholics Persuade by Example, Not Impose Views”: that was the *Times*’ headline, followed by an editorial warmly praising you and bitterly attacking the Church. Do you accept this kind of support? If so, are you surprised that Catholics are suspicious of you?

The editorial said: “The Catholic bishops’ effort to *impose a religious test* on the performance of *Catholic* politicians *threatens* the hard-won understanding that finally brought America to elect a Catholic President a generation ago. . . . Do the bishops not value the tolerance thus achieved?” (My emphasis.) Others wrote in a similar vein—on your side. They accused the Church of inviting a resurgence of bigotry—a bigotry they didn’t seem to regret.

If there is bigotry this time around, it won’t come so much from the old heartland of American nativism; Jerry Falwell counts many Catholic supporters of Moral Majority, and he warmly welcomes them. No: the bigotry is already boiling in “liberal” quarters. The *Times* has been gunning for Archbishop O’Connor ever since he was designated to succeed Cardinal Cooke.

It began by smearing him with the insinuation that he was an anti-Semite—despite his sterling interfaith record—because he dared to liken abortion to the Nazi mass murders of Jews. It has continued to distort his words and attack his motives. It featured an interview with you, followed by several more articles and editorials, as part of this nasty campaign.

I deeply hope you regret being cited as the anti-Catholics’ Catholic of choice. It isn’t much of an honor. The *Times* has a long record of promoting division within the Church and hostility without. It constantly features dissident Catholics of various kinds—Theresa Kane, Hans Küng, Thomas Sheehan, and many others—to embarrass and discredit traditional

Catholicism. An organization is conventionally taken on its own terms: the Boy Scouts, the ACLU, the New York Yankees. Other organizations are allowed to determine their own lines of authority. But the *Times* is eager, always, to advance dissident “spokesmen” for a Church which, one might think, had long managed to define its own identity pretty clearly. Governments sometimes do something like this to regimes they disapprove of, by granting diplomatic recognition to governments-in-exile, not to acknowledge the status quo, but, on the contrary, to disturb it. The *Times* is currently using you for this purpose.

A few weeks ago, you’ll recall, the *Times* carried a front-page story to the effect that the nation’s Catholic bishops were soon to release a statement in effect taking your side against Archbishop O’Connor. But the real import of that statement was nearly the opposite; and seeing what the Paper of Record was up to, the bishops immediately released their statement ahead of schedule, to the deserved mortification of the *Times*. This was only the most notable of the newspaper’s attempts to slant all the news that’s fit to print against the Catholic Church. Don’t imagine that Catholics are blind to this practice or indifferent to the *Times*’ efforts to recruit Catholic politicians as quislings.

The *Times* is owned and operated by people whom it is conventional to describe as Jews, but who, it is important to note, are nearly as hostile to Orthodox Judaism as to Catholicism and evangelical Protestantism. They may have a certain ambiguous loyalty to Israel, but only insofar as Israel is a secular society; its increasing return to its ancient faith embarrasses them. For religion in general they have only fear and contempt, barely masked as condescension. They adhere to a purely secularized conception of Jewry, which by analogy they are also eager to propagate among other groups. They want secularized Protestantism and secularized Catholicism, religion reduced to ethnicity with no universal implications. So the whole drift of their policies is to foster a kind of ecumenical communion of apostates. What their kind has done to their own people (with some, but not total, success) they would do to the rest of us. A secularized Catholicism is a contradiction in terms, but they find allies enough, and they are good at effecting plenty of harm, confusion, defection, and demoralization in the short term. I can guarantee you that if you start agreeing with the Archbishop more often you will soon cease being fit to print in the *Times*.

You've argued now and then that it's wrong to impose "Catholic" teaching on the whole population, just as it would be wrong to impose Orthodox Jewish observances on everyone. But last year you did just that! You signed the "get" law requiring an Orthodox Jew, in effect, to grant his wife a religious divorce, releasing her to marry again within her faith, in order for him to get a civil divorce. So the secular law of New York, thanks in part to you, has incorporated Sabbath law.

What's wrong with that? By my standards, nothing. The life of the law, Justice Holmes observed, is experience, not logic. But your own logic should have forbidden you to sign that law. If a "Catholic" law fails to meet your test of "consensus," how much more an Orthodox Jewish law, reflecting the wishes of a minority of a minority?

But that was a good law, in my judgment. And I remind you that Orthodox Jews also oppose legal abortion—much more solidly, in fact, than Catholics do. An Orthodox rabbi told me the other day how deeply he resents the image, conveyed not by anti-Semites but by the *Times* itself, of Jews as left-wing, pro-abortion, pro-pornography atheists and secularists. He wants to communicate to Christian America that there are still many Jews who keep their ancient faith.

All this being so, I hate to see you supporting the *Times*' line that the fight against legal abortion is an essentially and peculiarly "Catholic" position. "With regard to abortion," you say, "the American bishops have had to weigh Catholic moral teaching against the fact of a pluralistic country where our view is in the minority." Yet you also say: "Catholics, the statistics show, support the right to abortion in equal proportion to the rest of the population." You add that "collectively we Catholics apparently believe—and perhaps act—little differently from those who don't share our commitment."

Good! If pro-abortion sentiment among Catholics is equal to that among non-Catholics, then pro-life sentiment among non-Catholics is equal to that among Catholics. So at least we Catholics are relieved of the charge of waging a campaign to "force our beliefs" or "impose our views" on everyone else.

I really think it's unfair to disparage the long and visible Catholic tradition of social sacrifice—schools, hospitals, orphanages, and charities, largely administered by celibate religious—by citing only "the statistics." But as you wish. Say Catholics are no better than anyone else. The validity of

a rule is unrelated to the virtue of its advocates anyway. (I wonder whether liberals would like their policy proposals judged by reference to their personal charitable donations?)

Still, you have a point. At least many Catholics do support legal abortion; and by the same token, many non-Catholics oppose it. You must therefore abandon the contention that Catholics are trying to foist their own dogma on everyone else. Simple logic dictates that much.

But the point is really larger. Of course the official Catholic position, in all its rigor, is a minority view. But there is no simple majority view. You will never find a majority, I trust, for unrestricted abortion-on-demand. At a given moment there may be a verbal majority, of course, but this is a very different thing from a consensus.

Sometimes the worst way to find out what people actually think is to ask them. Often they give conventional and superficial answers. In the case of abortion, they don't give their most heartfelt views to nameless pollsters. You have to gather the truth obliquely.

In the Hippocratic oath, before its recent expurgation by the medical profession, doctors pledged not to give abortions. Ordinary people in many tongues have spoken of a pregnant woman as being "with child." Books appear on newsstands with titles like *Caring for Your Unborn Baby*. The Gospel of Luke tells us that the child—John the Baptist—leapt in Elizabeth's womb at the nearness of Jesus in Mary's womb: the revelation being the miraculous response, while the fact that these two unborn children were alive is taken for granted in the background. Need I go on? When we aren't being polemical, we simply assume that unborn children are children. The really doctrinaire thing is to assume otherwise. Current medical research is expanding, not narrowing, our knowledge of the humanity of those unborn. Children even *learn* in the womb.

The word "child" always has positive connotations. The word "abortionist" never does. I saw a letter in the *Times* one day from a doctor who objected to the term. (He performed abortions now and then, he acknowledged.) Nobody hangs out a shingle saying "John Jones, M.D., Abortionist." In fact I daresay your own policies would be harder to sell the public if you spoke of the state as "paying abortionists" instead of "funding abortion services."

Our civilization's real attitude toward abortion is revealed in its casual idioms, not in the artificial responses it is currently fashionable to make—

the rigid euphemisms about “terminating a pregnancy” and “nonviable fetuses,” “a woman’s right to choose” and “reproductive freedom.” These phrases are not the stuff of hymns and poems and myths. They are attempts to conceal disgust.

When the great wave of Catholic immigrants came to America late in the nineteenth century, they didn’t find it necessary to import an alien doctrine of their own about abortion. The natives (including the nativists) were already part of the civilized consensus on that, whatever their other shortcomings. Long before 1973, every state had at least some restrictions on abortion, and in most cases very severe ones.

The Supreme Court found it necessary to strike down even the most liberal abortion laws. It is vital to understand this. The Court ruled that the legislatures of all 50 states, which were by no means strictly uniform on the subject of abortion, were in standing violation of the most fundamental American social contract, the United States Constitution.

It isn’t beyond imagination that the majorities in all the states had been wrong; it’s merely improbable. What is worse than improbable is the Court’s tacit implication that no minority had ever been in the right. For as far as I know, never, before legal abortion became fashionable in the 1960s, did any dissenting minority against the abortion laws, in any state, advance the view that those laws were unconstitutional. The Court in *Roe v. Wade* struck down a longstanding consensus with an absolute jurisprudential novelty, one that has since been an embarrassment to serious defenders of judicial activism and a horror to strict constructionists.

It was, as Justice White said in his famous dissent, an act of “raw judicial power.” Disingenuous champions of legal abortion have tried to disguise this simple truth. But *Roe v. Wade* was the most audacious ruling in the history of American law. Judicial power and prestige have been in decline ever since. The Court that had boldly struck down state segregation and public school prayer learned at last that there is a level of moral consensus which it is very dangerous to flout.

There had been considerable variety among the laws struck down by the Court. Some were sharply restrictive; some were lenient. But all of them, even the most liberal, presumed that abortion was bad, that it was not something that should be readily available “on demand.” There was debate about the range of exceptions, but not about the rule. Here there

was consensus. It existed before your Catholic ancestors and mine set foot in this country.

Nothing could be more misleading, therefore, than to talk, now, as if the fact of legal abortion constituted a new consensus itself. The old one has been gravely damaged, it's true; we are now arguing, in effect, about how much to restore of the complexly expressed system of restrictions that was destroyed at one blow.

That blow was a blow against moral sanity. It didn't, of course, destroy deeper moral consensus that abortion is evil; even defenders of legal abortion, when they aren't totally denigrating the value of the "fetus," feel obliged to cant that abortion is always a "difficult decision" (why should it be, on their principles?). But it staggered the entire nation, and threw us into confusion and turmoil. It was an apple of discord in our politics.

I notice that the *Times*, while it targets the Catholic Church as the outside agitator in the abortion discussion, has already launched its campaign for euthanasia. Maybe in a few months we will be hearing that since the Catholic Church opposes murder and suicide in all circumstances, those who resist this latest moral innovation are trying to "impose a religious test" on good Americans. And if the Church dares to maintain the law of God, the *Times* will warn her sternly that she is stirring up "bigotry" again. The *Times* forever blames discord and divisiveness on those who withhold instant assent from the latest turn in the liberal-secularist party line.

The Catholic Church has been only the leading voice in defense of the abiding moral sanity of the West. She has not been alone; but she has certainly been the most troublesome to the champions of the new perversities. Because she faithfully repeats what nearly everyone used to agree on, she has to be discredited and defamed and accused now, as she could never have been accused in the nineteenth century, of bringing an alien and un-American dogma to our shores. She has to be calumniated with charges of political ambition for the mere act of reminding us of what few ever doubted before.

And that's the normal function of authority: simply to remind. Dr. Johnson observes, "Mankind more frequently *require* to be reminded than informed." To some people, the advocacy of the unborn comes as an unbearable, nagging reminder. They have to make it out to be a sudden, doctrinaire intrusion; because if her position isn't, theirs is. It is even

necessary to portray her permanence as a kind of violence, and her patient, persistent orthodoxy as the frenzy of an eccentric sect, menacing our separation of church and state.

The worst thing I can say about you is a thing that is too obvious to deny: that these fanatics accept you as one of their own. They cite you as a “good” Catholic, according to their notions, and they quote your words in their defamations of the Church and of other Catholics. They were able to distill from your speech itself a meaty diatribe against Catholics who, unable to follow their own counsels, were plotting to impose their impossible rules of conduct on the rest of the population.

It gives me no pleasure to point this out; but it’s already taken for granted on both sides. The period of ambiguity and equivocation is past; the lines are drawn; the *Times* and its kind are making war on the Church, and everyone has pretty much concluded as to which side you are on, or at any rate have lent yourself to.

And haven’t you really asked for this? Have you said anything to protest the liberal anti-Catholicism that’s breaking out all over? Doesn’t your speech actually imply that this is what Catholics have deserved?

There was in your speech a good deal that was thoughtful and fair to the Church. I doubt, however, that you’ll see much mention of this in print. The real effect and thrust was caught in those headlines: “Cuomo Bids Catholics Persuade by Example, Not Impose Views” and “Cuomo Vs. the Church.” You may be subjectively innocent of producing this impression; but there it is, and you have to take responsibility for it at some point. Your own example doesn’t seem to be persuading anyone on either side. It isn’t making many Catholics more liberal, and it certainly isn’t making any liberals more Catholic.

I can’t believe you’ve consciously intended any treachery to the Church. You radiate too tough and honest a moral fiber for that. And I can’t believe that my country will continue much longer to permit the butchery of its unborn children. (If “butchery” strikes you as an overstatement, I can send pictures.) The *Times* side won’t be the winning side; and even if it were, I wouldn’t want to be on it. Would you?

Right now America is going through a terrible but temporary aberration; the Church is helping see us through it until our national sanity returns—as it surely will. Join her in this cause. She needs you.

Understanding Mario Cuomo

John Tagg

YEARS HENCE, wise and knowledgeable persons will reflect upon the oratorical history of the year 1984. They will thumb through the recorded locutions of dozens of prominent and well-spoken Americans. Will they find a single speech that really changed things? Will they discover any one act of persuasion that started a trend or stopped a movement? Of course, we cannot tell with confidence. But it is interesting to guess. If we were taking nominations for the speech most likely to go down in history as a milestone I would not offer any of those delivered in the course of the political campaigns, nor anything said in our legislative debates. There is, however, one speech that I would nominate as a potential earth-shaker: the speech delivered by Governor Mario Cuomo of New York on Thursday, September 13, at Notre Dame University.

Why? The speech was delivered to a relatively small audience. It was broadcast nationwide but was probably not seen by many people. It was excerpted here and there, but without any great likely impact. Indeed, the speech could hardly have had any immediate or dramatic consequences.

But we are not talking here of immediate, dramatic consequences. We are talking of gradual but lasting changes. And Governor Cuomo's remarks—which dealt with abortion and the response to it in a pluralistic society—are of the sort that sink in slowly, that are spread among elites, and that may eventually change the terms of debate.

At the beginning of last year, it was common knowledge that the Catholic Church was against abortion. This was considered a matter of doctrine so clearly defined and so uniformly accepted among the clergy and practicing faithful that those few prominent Catholics who “personally opposed” abortion but had devised a quaint formulation for approving it in some cases attracted attention as a kind of man-bites-dog phenomenon. A good deal of ink was spilled over Teddy Kennedy's magisterial moral stance that while he would never *personally* have an abortion it should be made as easy as possible for every woman in the

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country to do so—or something like that. But then the discerning public had long since come to view Ted Kennedy as a more or less “ethnic Catholic,” punctilious only in “social” morality.

Geraldine Ferraro? She was, until fairly recently, a secret exception, but the 1984 Democratic convention changed all that. Suddenly Mrs. Ferraro was a real candidate for national office and the most prominent Catholic politician in the country. Her heterodoxy was news more worthy than previous cases, for the first female vice presidential candidate’s being a Catholic who advocated abortion funding added a new dimension: Woman bites dog, so to speak.

It is interesting to reflect on the fact that Mrs. Ferraro was not Walter Mondale’s first choice as his running-mate. His first choice, Mario Cuomo, turned him down. Following the Democratic convention, both Mario Cuomo and Geraldine Ferraro engaged various Catholic bishops in a protracted bickering match on the subject of abortion. While individual contributions to this dialogue were no doubt both valid and justified, the cumulative impact of the exchanges—especially as they were reported in most news sources—was to trivialize and muddle the issue in the public mind.

Amidst this confusion about what had once seemed a settled issue, Governor Cuomo stepped onto the stage at a Catholic university to clear things up. I listened.

If I had any doubts before, they are gone: Mario Cuomo is one of the finest public speakers in the country today. His keynote speech at the Democratic convention was very good. But his speech at Notre Dame was brilliant. As a connoisseur of fine oratory, I have seldom been more impressed.

His delivery is conversational, in the best possible sense. He conveys force without resorting to apparent artifice. “The aim of the sculptor,” G. K. Chesterton wrote, “is to convince us that he is a sculptor; the aim of the orator is to convince us that he is not an orator.” Cuomo almost pulls it off.

His voice helps. It is a serviceable voice, not particularly stentorian, but clear and fairly resonant, free of the glottal ambiguities that so bedevil poor Walter Mondale. His enunciation is precise and poised but with an echo of a regional dialect sufficient to forestall any suspicions of condescension.

His appearance helps, too. It is, at least on television, unprepossessing. While not precisely ugly, his is not a face likely to be sought out for its aesthetic qualities of line and balance. A man who looks like Mario Cuomo can be eloquent without seeming arrogant.

And the music: He speaks slowly and with a varying pattern of inflection. This counts for a lot, because many politicians have one favorite inflection pattern, at most two, which begin to wear thin after a few minutes and to grow irritating after a few years. John Kennedy we could put up with because he pronounced his words funny and that kept us awake. But do you remember ever hearing the *end* of a Lyndon Johnson speech? Jimmy Carter's sing-song was cute until you'd heard it for a cumulative total of one hundred minutes. And imagine what the country would have been like after listening to Walter Mondale for four years.

But Mario Cuomo is not a one-trick pony. He, like Ronald Reagan, can adapt his pattern of inflection to his meaning, and he can do so without sacrificing force. We could listen to him for years and want to hear more.

Mario Cuomo can say intelligent things and not sound condescending. Pat Moynihan could never do that. Jeane Kirkpatrick does not find it easy. Adlai Stevenson tried for years without success. But the combination of words and music and image that Mario Cuomo's audience receives allows him to offer complex thoughts, to make subtle distinctions, without sacrificing the sympathy of his listeners. He can wield *logos* without weakening *ethos*.

And he does. The man makes arguments. He gives reasons. He grapples. Not only does he acknowledge his opponents' theses, he accepts their metaphors, and turns them to his own purposes. He makes distinctions, delineates issues. Here we have a liberal who discriminates.

In his speech at Notre Dame, Cuomo demonstrated all of these qualities vividly. He argued his case persuasively, and one could not doubt that he meant every word he said in the very depths of his undoubtedly Christian heart. But there was one other characteristic of that speech that makes it especially worthy of note when considered in light of the qualities we have just enumerated. Cuomo was brilliant, eloquent, sincere—and wrong. Brilliantly wrong, eloquently wrong, sincerely wrong. But wrong.

Because Cuomo advances with such feeling and skill essentially pernicious

cious ideas, he is a dangerous man. I do not say he is an evil man; I am sure he is not. His ideas are not entirely deplorable. But some of them are wrong in dangerous ways.

Beware this man. Do not fall victim to the modern silliness that trends and economic cycles make history. Men and women make history. Abraham Lincoln was no trend. FDR was as much a victim of economic cycles as his predecessors, but he was a master of words. He was able to do what he did only because he said what he said. Ronald Reagan is different from other Republican Presidents since FDR. He is different, and better, because he can articulate his conservative ideas so as to inspire the nation to make common cause with him. Largely because of Ronald Reagan, conservative ideas are being heard today, and in many places they are even being listened to.

Mario Cuomo would be the liberal David to the conservative Goliath. Liberalism is dead, you say? Mario Cuomo's new liberalism may just be suffering its birth pains. Cuomo explains and defends it with a skill worthy of comparison with the masters. And for that reason, Mario Cuomo may be the most dangerous man in America.

"As a Catholic," Mario Cuomo says, "I accept the Church's teaching on abortion." He does not, however—at least not in his Notre Dame speech—describe that teaching in any detail. It is, we are given to believe, a "moral" teaching. He builds his central argument on the distinction between the moral or religious and the political spheres. He quotes (of all people!) Michael Novak: "Religious judgment and political judgment are both needed. But they are not identical." Those who accept the Church's moral teaching may respond to that teaching with different forms of political action, Cuomo asserts. "There is neither an encyclical nor a catechism that spells out a political strategy for achieving legislative goals."

Political realists, Governor Cuomo tells us, have a "sense of complexity." Therefore, the Church does not prescribe "a precisely defined political plan." Cuomo repeatedly uses terms like "exact" and "specific" to characterize those qualities of political action that moral imperatives do not control. "In the application of those teachings—the exact way we translate them into political action, the specific laws we propose, the exact legal sanctions we seek—there was and is no one, clear, absolute route that the Church says, as a matter of doctrine, we must follow."

What is the function of all this language of complexity? I think we

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may safely conclude that when Governor Cuomo disdains “exact legal sanctions” he is not revealing a preference for vague ones. He seems rather to be referring to the multiplicity of options. Moral doctrines do not carry prescriptions for “the exact way we translate them into political action,” because there are many different ways, many “specific laws” through which we could enact those doctrines. There are many roads to Rome, many means of reaching the same end. Hence agreement on the end does not require agreement on the means. Understood in this way—and I am sure that is how Cuomo’s audience understood him—the governor is obviously right.

While making his indisputable point about means and ends, however, Cuomo is also doing something else. The constant use of qualifiers—“exact,” “specific,” “practical”—to refer to every possible political action tends to minimize the grounds for distinction between one political action and another. Ends are big, broad things hanging in the sky. Means are matters of detail, and choices among them are hairbreadth judgments best left to proofreaders and accountants. Thus, when Cuomo deftly moves from the discussion of method to the discussion of substance it is easy to miss what he is doing.

He eases gently toward his point by noting that, even among Catholics, “there can be different political approaches to abortion besides unyielding adherence to an absolute prohibition.” And that certainly sounds reasonable. Indeed, the terms “unyielding” and “absolute” have no place at all among “political approaches.” Politics is the world of myriad options, of complexity, of the detail work. Unyielding absolutes just won’t fit.

Thus does Governor Cuomo, with consummate artistry, gently prepare us for his own specific option, one among many:

I’ve concluded that the approach of a constitutional amendment is not the best way for us to seek to deal with abortion.

I believe that the legal interdicting of abortion by either the Federal Government or the individual states is not a plausible possibility and even if it could be obtained, it wouldn’t work. Given present attitudes, it would be Prohibition revisited, legislating what couldn’t be enforced and in the process creating a disrespect for law in general.

Not only the context but the words with which Cuomo describes his judgment make clear that what he is talking about here is a weighing of circumstances, a judgment of expediency. One specific approach, the governor believes, is not the “best way” to “deal with” the problem. A

particular option is not a “plausible possibility.” Thus, in a world of many options, the governor of New York chooses one over another. His “option,” of course, is to do absolutely nothing whatever to restrict abortion.

It is easy to lose sight of the fact that in two sentences, by the careful exploitation of a subtle ambiguity, the governor has reached a conclusion utterly alien to his premises. His argument was that one could accept a moral doctrine without being obliged to carry it out in a particular way. He concludes from this that one way of carrying it out is to behave as if it didn't exist. We thought we agreed with Governor Cuomo when he asserted that in “application” of that doctrine “there . . . is no one, clear, absolute route that . . . we must follow.” Now we discover that “clear” and “absolute” were just window dressing. We don't have to follow any route at all. When he claimed the freedom to choose the “exact legal sanctions,” we thought he meant the freedom to choose among options. Now we find that his option is exactly no legal sanction at all.

The point becomes even more clear when we consider the doctrine that the governor is discussing. He avoids explicitly defining this doctrine, which he speaks about in the abstract; but it is the doctrine that a human fetus is a human being and that to kill a human fetus is to kill a human being. The moral imperative that emerges from this doctrine is that we should act to protect innocent human life from destruction. The question the governor is discussing is how we should apply this moral principle in framing public laws.

The exact, precise, specific option that Governor Cuomo chooses is to do exactly, precisely, and specifically nothing to protect innocent life. That this is an option for public policy is beyond doubt. But it is precisely the option of rejecting and denying the moral principle that Governor Cuomo claims to embrace. Yes, there is a difference between morality and politics. But to argue that one “applies” a moral principle in the political arena by doing exactly what one who rejects that principle would do is an affront to morality, politics, and sound reasoning. Defend Hitler's policies if you must, but don't claim they flowed from a love of the Jews. Speak up for slavery, if you will, but don't tell us that such a policy was pursued to serve the interests of black people. Advocate, Governor Cuomo, if such is your conviction, a public policy that places the very life of the child in the womb totally at the disposal of the mother,

but please don't tell us that such a policy is an "application," one way to "translate . . . into political action" the Christian principle of the sanctity of life. There are many roads to Rome, the governor says, and surely an honest pilgrim is not obliged to pick one particular route. Therefore, let's go to Berlin instead.

I doubt that Mario Cuomo could have brought off this consummate act of rhetorical legerdemain were he not utterly sincere. But if he is both intelligent and sincere, how can he reason as he does? The answer, I think, is to be found by examining the standards that Mr. Cuomo considers applicable to private and to public morality. He says:

Our public morality, then—the moral standards we maintain for everyone, not just the ones we insist on in our private lives—depends on a consensus view of right and wrong. The values derived from religious belief will not—and should not —be accepted as part of the public morality unless they are shared by the pluralistic community at large, by consensus.

Thus, it is not as a Catholic but as a public official that the governor is opposed to restricting abortion. And his grounds for that opposition are precisely those which we might surmise. They have nothing to do with morality, by any definition. He believes we should not restrict abortion because there is not a consensus that we should.

Governor Cuomo may be correct that there is not a national consensus that abortion should be restricted. (I think he is wrong, but that is beside the present point.) But what he fails to acknowledge is that there is certainly no consensus that abortion should be permitted without restraint. The subject is highly controversial, has been for many years, and almost certainly will continue to be. It was controversial when abortion was restricted by every state; the national legalization of abortion has intensified the controversy. The status quo is a product not of consensus but of judicial fiat. *Roe v. Wade* no more represents a national consensus on abortion than *Dred Scott* represented a national consensus on slavery.

The analogy with slavery, which Governor Cuomo himself uses, puts the theory of consensus morality to a severe test. Governor Cuomo points out: "It has been argued that the failure to endorse a legal ban on abortions is equivalent to refusing to support the cause of abolition before the Civil War." Boldly, the governor attempts to turn this analogy to his own purposes:

The truth of the matter is, few if any Catholic bishops spoke for abolition in the years

before the Civil War. . . . They weren't hypocrites; they were realists. At the time Catholics were a small minority, mostly immigrants, despised by much of the population, often vilified and the object of sporadic violence. In the face of a public controversy that aroused tremendous passions and threatened to break the country apart, the bishops made a pragmatic decision. . . . They concluded that under the circumstances arguing for a constitutional amendment against slavery would do more harm than good, so they were silent. . . .

The decision they made to remain silent on a constitutional amendment to abolish slavery or on the repeal of the Fugitive Slave Law wasn't a mark of their moral indifference: It was a measured attempt to balance moral truths against political realities. Their decision reflected their sense of complexity, not their diffidence. As history reveals, Lincoln behaved with similar discretion.

Lincoln, in fact, behaved with very different discretion, but let us consider that later on. Cuomo is suggesting here that while the Catholics of 1857 saw a moral imperative, circumstances made them impotent. The Church was small and weak; it couldn't influence anybody; and it feared a violently negative reaction to the attempt. Well, the Church is no longer small and weak, it is big and strong. What is the point of the analogy?

Cuomo is not saying that as the bishops were silent then, they should be silent now. He is not even talking about what bishops should say. He is talking about what public officials should do. "Our bishops," he grants, "should be teachers, not pollsters." But, on the other hand, "if the breadth, intensity, and sincerity of opposition to Church teaching shouldn't be allowed to shape our Catholic morality, it can't help but determine our ability—our realistic, political ability—to translate our Catholic morality into civil law, a law not for the believers who don't need it but for the disbelievers who reject it."

Is the governor suggesting that the silence of the ante-bellum bishops on slavery might be a useful paradigm for present-day Christian public officials to follow with respect to abortion? I think that he is. He praises those bishops as "pragmatic." They were "realists" with a "sense of complexity" who could balance "political realities." Those bishops, in other words, were good politicians.

The analogy is poorly cast. Let's not look to bishops for an example of how public officials should behave, let's look to public officials. And as it happens, that is an easy task. Chief Justice Roger Taney, who wrote the majority opinion in *Dred Scott*, was a Catholic who was "personally opposed" to slavery.

Is Taney's behavior, then, a useful paradigm for a present-day Catholic

public official? Cuomo does not talk about Taney and would probably have few kind words for him if he did. But he does raise the issue of slavery, and so it is reasonable to see how far the analogy will go.

Taney, of course, was a jurist. But politicians had a lot to say about his famous opinion. Let's consider how a Governor Cuomo of 1857 might have justified passive acceptance of the law of the land, which stated, according to the recent insight of the Supreme Court, that Negroes were strictly property and not citizens. Could that governor not have spoken thus: "I've concluded that the approach of a constitutional amendment is not the best way for us to seek to deal with slavery. I believe that the legal interdicting of slavery by the Federal Government is not a plausible possibility and even if it could be obtained, it wouldn't work. Given present attitudes, it would be legislating what couldn't be enforced and in the process creating a disrespect for law in general."

The argument would have been a forceful one. Indeed, it *was* a forceful one, and one often made by practical politicians of the day. Representative William Drayton of South Carolina, who felt obliged to "condemn and abhor" slavery "in the abstract," was nonetheless constrained to recognize that "when we live in states in which slavery existed before we did . . . it has become so inseparable from and interwoven with our condition, as to be irremediable." The great and irreducible argument for slavery over freedom was simply the impracticality of freedom. It is precisely the same argument that Governor Cuomo offers for a public policy sanctioning death over life for the unborn.

The appeal to circumstance in Cuomo's case is commingled with the appeal to the authority of law. "We must keep in mind always that we are a nation of laws —when we like those laws, and when we don't. The Supreme Court has established a woman's constitutional right to abortion." Stephen A. Douglas, Democrat and practical politician, chided Lincoln for carrying on "a crusade against the Supreme Court of the United States" and declared: "I respect the decisions of that august tribunal, I shall always bow in deference to them . . . whether I like them or not."

Indeed, Mario Cuomo's persuasive conception of the Christian leader's practical obligation to consensus morality would precisely have justified such a leader in defending the perpetuation of slavery after the *Dred Scott* decision. The sophistication with which Cuomo argues his case conceals

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the dangers that inhere in his principles. Those dangers are, perhaps, more evident when the same principles are applied by clumsier hands. Consider the following statements by prominent public figures:

We would as soon permit others to invade the sanctuary of our dwellings, as to touch [it]. We would as soon permit Congress to dictate to us in our domestic concerns—in our social intercourse—to prescribe to us a system of religion, or a code of morals.

Is it really the view of the American people, however you feel about the question . . . , that government ought to be reaching into your living rooms and making choices like this? . . . I think these questions are inherently personal and moral.

The first statement was made by Representative William Drayton of South Carolina in a speech to the House in 1828. He was speaking of slavery. The second statement was made by Walter Mondale in the first presidential debate of 1984. He was speaking of abortion. Mario Cuomo paved the way.

If Governor Cuomo's prescription for public morality had been uniformly and constantly accepted as a standard by this nation's leaders, Thurgood Marshall would be a slave today. If this nation has grown closer to the fulfillment of the promise on which it was founded, it is because it has had leaders who rejected Cuomo's thesis that "our public morality . . . depends on a consensus view of right and wrong."

Contrast Cuomo's calm eloquence with the fervor of an admitted fanatic, William Lloyd Garrison, appraising the failure of consensus in 1854:

Numerically, the contest may be an unequal one, for the time being; but the Author of liberty and the Source of justice, the adorable God, is more than multitudinous, and He will defend the right. My crime is, that I will not go with the multitude to do evil. My singularity is, that when I say that Freedom is of God, and Slavery of the devil, I mean just what I say. My fanaticism is, that I insist on the American people abolishing Slavery, or ceasing to prate of the rights of man.

They cannot both be right.

In application to many issues, Governor Cuomo's restraint in imposing his personal morality upon public policy, his deference to the principle of self-government by consensus, would be commendable. Why is this not true of the issue of abortion? The reason is that to apply the principle to abortion, as to apply it to slavery, is to destroy the principle.

The reason why abortion is wrong is the reason why democracy is right. The question we face when we consider our policy toward the unborn is not merely, "What is the fetus?" The question we face is,

“What are you? What am I?” A human being, at any stage of development, is either a growth or a creation. A growth does not become a creation by getting bigger.

The reason why we should protect the unborn—the only reason I can think of for doing so—is that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty, and the pursuit of happiness. Is that a political principle, or a moral one? God knows it is hardly an expedient one. There is no more consensus about it in today’s world than there was in yesterday’s. A very small minority of the world’s citizens have found it self-evident, and even fewer have acted on the insight. I do not believe the principle can be proven, in any commonly accepted sense of that term. But those communities that have maintained democratic government have done so by virtue of their assent to this principle. Self-government will not sustain itself unless it is based upon the moral givenness of the governing self, the individual human being.

Stephen Douglas said in his debate with Lincoln at Alton in 1858:

I care more for the great principle of self-government, the right of the people to rule, than I do for all the Negroes in Christendom. I would not endanger the perpetuity of the Union, I would not blot out the great inalienable rights of white men, for all the Negroes that ever existed.

To so state the case is to display with exquisite clarity the self-destructiveness of this mode of thought. To defend inalienable rights by alienating rights, to defend the rule of the people by holding some people in bondage, to perpetuate self-government by preserving slavery is to destroy the cause in order to save it.

Governor Cuomo asserts, after praising the silence of Catholic bishops in the face of slavery: “As history reveals, Lincoln behaved with similar discretion.” This is a falsehood of monumental proportions and, in a way, the single most deplorable statement that Cuomo made in the entire Notre Dame speech. In fact, it was Lincoln’s great triumph that he was able to see the relation of morals to politics, and finally to perceive that some political actions are so wrong that they undermine the very foundations of politics.

Douglas argued that the issue of slavery must be subordinated to the issue of self-government, to the governing consensus, if you will. In a speech in Baltimore in 1864, Lincoln articulated the essential refutation:

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The doctrine of self-government is right—but it has no just application as here attempted. Or perhaps I should say that whether it has such just application depends on whether a Negro is *not* or *is* a man. If he is *not* a man, why in that case, he who *is* a man may, as a matter of self-government, do just as he pleases with him. But if the Negro *is* a man, is it not, to that extent, a total destruction of self-government to say that he too shall not govern himself? When the white man governs himself that is self-government; but when he governs himself and also governs *another* man, that is more than self-government—that is despotism.

Self-government was, Lincoln realized, a moral principle, and the principle that vivifies politics, rightly conceived. In the debate at Alton he defined the proper context for Douglas's autonomous self-government:

The real issue in this controversy . . . is the sentiment on the part of one class that looks upon the institution of slavery *as a wrong*, and of another class that *does not* look upon it as a wrong. The sentiment that contemplates the institution of slavery in this country as a wrong is the sentiment of the Republican Party. It is the sentiment around which all their actions, all their arguments, circle, and from which all their propositions radiate. They look upon it as being a moral, social, and political wrong.

Lincoln was, of course, sensitive to the difficulty of imposing a simple solution to such a controversial problem. He had, with respect to slavery, “a due regard for its actual existence among us, and the difficulties of getting rid of it in any satisfactory way, and . . . all the constitutional obligations thrown about it.”

He had no patience, however, with the view that in a matter touching upon the inalienable rights of man public officials could set their personal morality to one side. Douglas claimed that self-government was his sole concern and that he had no position on slavery. Lincoln charged him with avoiding the issue that could not be avoided:

He may say he don't care whether an indifferent thing is voted up or down, but he must logically have a choice between a right thing and a wrong thing. He contends that whatever community wants slaves has a right to have them. So they have, if it is not wrong. But if it is a wrong, he cannot say people have a right to do wrong.

While Lincoln respected the law, he said of the *Dred Scott* decision: “I believe the decision was improperly made and I go for reversing it.” He saw through the cant of expediency, the excuse of circumstance, to the moral issue, which was also the political issue.

Few would deny today, certainly not Governor Cuomo, that Lincoln was right about slavery. But is it not possible to disagree on the question of whether abortion is morally similar to slavery?

Of course it is possible. It would be possible for Mario Cuomo to

believe that abortion is not morally similar to slavery. But he has told us that he does *not* believe that. He has told us: "I accept the Church's teaching on abortion." If that is true, then for him the moral issue of abortion is not merely similar but identical to the issue of slavery. If Cuomo believes, as he professes to believe, that the unborn child is a human being, then the issue of right and wrong is unavoidable. And on that issue he stands, morally and politically, in the position, not of Lincoln, but of Douglas. There is one difference: Douglas did not believe slavery was wrong; Cuomo avows that he does believe abortion is wrong.

Stephen Douglas said that according to the Supreme Court of the United States any group of white men that chose had a right to hold black men in bondage. Abraham Lincoln said to him: "So they have, if it is not wrong. But if it is a wrong, he cannot say people have a right to do wrong."

Mario Cuomo says that according to the Supreme Court of the United States women have the right to terminate the lives of their unborn children. And we must say: "So they have, if it is not wrong. But if it is a wrong, he cannot say people have a right to do wrong."

Mario Cuomo cannot tell us that while he personally feels abortion is the taking of innocent life he defers in his public-policy advocacy to the great principle of consensus government, and sanctions it. That is to say that because he respects the people's freedom to choose he sanctions their right to deny some people the freedom to live. Cuomo is free to believe in the inalienable rights of man or not. He is free to believe in the sanctity of human life or not. But he cannot say that he believes in both of them yet assents to a public policy of abortion on demand. But, of course, that is precisely what he *does* say. And he says so with such art that we are tempted to believe the impossible. Perhaps we should be thankful. If, opposing abortion, Governor Cuomo has so advanced its cause, what might he have done if he favored it?

Every government is run by consensus. The question is: A consensus of whom? The king and his court? Twelve old men in the Kremlin? White men? Those whose birth occasioned no inordinate inconvenience? The principle of democratic consensus is not autonomous, self-justifying. And it will not stand unless it is founded on the principle that all human beings are *created* as inviolably free individuals.

Abortion is not a Catholic, or even a Christian, issue. It is not primarily

as a Catholic that Governor Cuomo fails, it is as a public official. This nation can survive without Catholics in public office. But it cannot, it literally cannot, long survive without public officials who will create consensus rather than obey it, politicians who will mold public sentiment toward justice rather than withdraw from the defense of justice in the face of public sentiment. In matters of fundamental justice there can be no lasting political consensus that is not also a moral one.

God knows this country has never perfectly embodied the principles that animated its Founders. But neither has it ever permanently committed itself to betraying them. The Republic was born carrying the cancer of slavery and nearly perished before it was cured. It still bears the scars. But we moved, through that long agony, closer to wholeness.

Mario Cuomo is right about one thing: Abortion is not merely a matter of law. Father James Burtchaell has summarized Lincoln's essential moral realism in this way: "Lincoln was brought to accept . . . that freedom for the oppressed cannot be acquired unless paid for by others." So it is with abortion. The price of life for the unwanted child is the pain of the woman who bears that child. Those who love the child, their neighbor in the womb, must love as well their neighbor who bears that child. And to love is to share the beloved's pain.

The right to life for the most innocent among us will not be assured quickly or easily. The issue will be the focus of intense controversy for many years. But there are those, and there will always be those, who will not rest while their innocent brothers and sisters are oppressed by the final and irresistible bondage of death.

Yet the issue that Governor Cuomo has raised so eloquently is even more important than the issue of abortion. For if to practice politics conscientiously is to put conscience aside, if the duty of the politician is to sanction crime to secure consensus, then politics itself is a crime, and consensus a cruel despotism. There may be a doctrine more dangerous to the survival of a free people than that which Governor Cuomo advances, but it is hard to imagine what it might be. The issue of abortion has become a test of this perverse doctrine.

Respect for tradition, G. K. Chesterton said, is merely an extension of the idea of democracy beyond "the small and arrogant oligarchy of those who merely happen to be walking about." Tradition, he said, is "the democracy of the dead." If our nation is to continue to grow toward the

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fulfillment of the promise that engendered and sustained it, it must, heeding the best counsel of our past, open the doors to the future, to the democracy of the unborn. We will know the promise of America for the truth when every human soul is free, even those who cannot ask for their own freedom.

When historians write the history of these years they may see Governor Cuomo's speech at Notre Dame as a turning point, the seed of a new consensus. Or they may see that the governor made an unsuccessful attempt to redefine the terms of debate, that he contributed to the forming of a consensus by awakening in his opponents a renewed sense of moral purpose and vigor.

For now, the controversy will continue. If things get better, there will be a price, and we shall have to help pay it. We should not rest until we have made a world in which no one dies who has not had a chance to live. Things being as they are, even in this grand and free nation, that means that we shall probably never rest at all. But we should not be dismayed to know this. Freedom is not meant for resting. Freedom is for doing the work of Him who made us, and who made us free.

A Story of Frustration

Bernard F. Law

I AM VERY GRATEFUL for your kind and gracious invitation to speak here today. Allow me at the outset to express my deep gratitude to you and, through you, to all your colleagues not only in radio and television, but also in the print media, for the way in which you have helped to introduce a relatively unknown Bishop from Southern Missouri to New England. Since coming here last March you, as well as your colleagues in the print media, have been generous in the space allotted to my comings and goings, and at times I might say you have been generous to a fault. It must certainly have been a slow news day when the occasion of applying for a driver's license was the cause for so much coverage! . . .

With that as a heartfelt preface, let me share with you a story. It is a story of a frustration. It is a frustration which I know something about, since it is my own frustration. It is a frustration which may have a value for all of us as a case study.

My frustration came into very clear focus on Monday, November 5, when at the end of the day I picked up the morning edition of *The Boston Globe* to read on page eleven a story with the headline "Prelate Soft-pedals Abortion Stand!" The article concerned a homily that I had preached the day before at a Mass attended by the New England Council of Nurses. In that homily, I attempted to relate the Scripture readings of the day to the unique mission of the nurse in our society. To my dismay, I read in the article that I had struck a "note of moderation," was "restrained" in my comments; the article also used the words of Sacred Scripture, taken from the Gospel passage read last Sunday at Mass, to imply that I thought my previous public statements on abortion had placed on peoples' shoulders heavy burdens which are hard to bear.

In order to vent my frustration, I composed a brief statement that I briefly considered calling in to the newspaper and releasing to Mr. and Mrs. America and all the ships at sea. Having successfully vented my frustration on paper, I had a much better second thought. Were I to issue

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such a statement at that particular moment, which, were it to be printed, would have appeared on election day, this would cause its own problems. Allow me now as part of this case study to read to you the statement I would have made had I followed my first instincts.

In an article in the *Globe* on Monday, November 5, it was erroneously implied that I have moderated my stand on abortion. Nothing is farther from the truth. I remain convinced that abortion is the primordial evil of our day. The timing of this statement is not of my choosing but is dictated by an article which distorted my views, and whose error was compounded by a misleading headline.

The article reminded me of the old story about the first officer of a United States Naval vessel who was at odds with the captain, and on a given day he would write in the ship's log: "the captain was not drunk today."

The article last Monday was only one in a series of frustrations I have had with the *Globe* on the issue of abortion and my involvement with this issue. I had been very much encouraged by a *Globe* editorial on April 4, soon after my installation, in which my opposition to abortion was noted, along with the fact that on the abortion issue it was my intention not to condemn but rather to persuade those who disagree. It was my impression, from reading the April 4 editorial in the *Globe*, that there was to be a dialogue among those of us who disagree on the abortion matter.

To my great dismay, a more recent *Globe* editorial about the threat on Justice Blackmun's life described the threat as ". . . a distressing indication that the denunciation of abortion by political and religious leaders in recent months has reawakened the lunatic fringe in the pro-life movement." The editorial linked the threat on Justice Blackmun to "inflammatory rhetoric" and "pious sentiments," and went on to say ". . . if any evidence were needed that it is time to end this debate over abortion, the threat to Justice Blackmun is a clear sign that it is time to recognize that abortion is a personal matter between each woman and her conscience." The editorial spoke of a "new reign of terror" by extremist groups which would ". . . resort to force and terrorism to achieve the goals of the anti-abortionists."

Between April and October, the editors of the *Globe* seem to have forgotten the distinction between "condemning" and "persuading" which they had welcomed, and it was implied that anti-abortion political and

religious leaders were responsible for a threat by irresponsible people on the life of a Supreme Court Justice and should no longer speak about abortion.

I found this very interesting indeed, knowing as I do that religious leaders are urged and expected to speak out on issues like war and peace and nuclear weapons, racism, civil rights, and other issues of public policy which are often controversial; and yet, in this editorial, I found myself, as a religious leader who has spoken out on the controversial issue of abortion, told to be silent.

It was distressing to read a *Globe* story that the Archbishop of New York, who has been eloquent in his defense of the lives of the unborn, had undergone a “shift on abortion,” but a headline in the *Globe* read “NYC prelate indicates shift on abortion” following a lengthy speech Archbishop O’Connor gave at Cathedral High School in New York in which he addressed the complex problems the abortion issue raises for many people, including those in political life.

As you know, I have not been bashful about speaking on abortion. I addressed the subject in the homily at my installation, in the baccalaureate sermon I delivered at Boston University, in the Commencement Address I gave at Boston College, in the speech I gave at the National Convention of the Knights of Columbus in Denver, in the address I gave at the Merrimac College in Andover, in the interview I gave on the MacNeil/Lehrer Report, in the speech at the banquet for Massachusetts Citizens for Life, and in the statement from the Bishops of the Boston Province, as well as in a speech I gave recently at Emmanuel College. In all of these, I have attempted to give a reasoned presentation of the abortion issue, with an emphasis on the fact that we are dealing with human rights. I have tried to make it clear that the constitutional guarantee of the rights of liberty and the pursuit of happiness have no meaning or importance to those who are deprived of the right to life.

Allow me to restate here just some of the reasons why I and others have placed so much emphasis on abortion as a critical issue for our times and for our people. Just the medical evidence is so compelling, as can be seen from the following excerpt from a statement signed by 64 eminent physicians from around this country and released at a press conference held in Washington, D.C., on October 12. Among the doctors

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who signed the statement was Dr. Bernard N. Nathanson of New York.

The continuing debate on abortion has generated an atmosphere in which the biological facts may be ignored or can be forgotten.

As physicians, we wish to bring to the attention of all interested parties scientific facts about which there can be no reasonable doubt.

A human ovum fertilized by a human sperm produces a biologically identifiable human embryo. That embryo contains all the essential biological material and genetic information required for complete cellular maturation, human tissue and organ development. The developing fetus is not a sub human species with a different genetic composition. As clearly demonstrated by *in vitro* fertilization, so also in *in vivo*, from the time of fertilization, the embryo is alive, human, and unique, in the special environmental support required for that stage of human development.

Individual human growth and development are a continuum from a precise starting point. Biologically speaking, the embryo is to the infant as the child is to the adult. The infant is not less human than the child. The child is no less human than the adult. The biological changes of human maturation are predictable and are determined by the human genetic code.

Confronted with the reality that human lives are being legally snuffed out in the United States at the rate of one and one-half million a year, it would hardly be consistent to say or do nothing about it. We are living in an age in which human rights advocates are widely acclaimed for their courage. Should I, as a Catholic Bishop in the third largest Archdiocese in this country, be silent when the lives of innocent children are destroyed and snuffed out in the environment which should be the safest place of all for them to be—in the wombs of their mothers?

We are justifiably shocked and outraged at the annual carnage on the nation's highways, on which nearly 50,000 people are killed each year. We are particularly offended when this happens at the hands of drunk drivers, and we applaud those who combat drunk driving. How can we be insensitive to the loss of one and one-half million innocent human beings who die each year by abortion, often with great pain? What would happen if the population of a large American city like Houston were to die by violence in the course of one year? Such a thing would never be allowed to happen because government intervention would swiftly deter the perpetrators of the violence. Nobody deters the violence of the abortionist.

During the past few months, I have often been asked why the abortion issue should be raised at this time, with an election in the offing. My response to the question is: "Why *not* raise the issue at this time?" In this

country, we make public policy by focusing on issues at election time. If this had not been so, there would have been no civil rights legislation, nor would the war in Viet Nam have ended when and as it ended. If issues like race, housing, education, employment, taxation, and other issues which affect the quality of life can be discussed during an election year, and they should be, why not speak about life itself during an election year?

It has been said that I and other religious leaders have threatened the separation of Church and State by speaking out on abortion as we have, and it has been stated as well that Catholic bishops have attempted to impose Catholic teaching on the general public. To this I respond by saying that Catholic teaching and public policy often coincide. This is obviously true in matters like civil rights, war and peace, rape, murder and theft. When Catholic bishops speak out about abortion as a moral evil, they are speaking about something altogether different from the obligation Catholics have to attend Mass on Sundays, or the responsibility Catholics have to observe the Lenten regulations promulgated by the Church. When we are speaking about abortion, we are speaking about human life and the right to life, just as we have spoken about slavery, civil rights, war and peace. These are issues which affect the whole population and are matters of public policy. Abortion is not a denominational issue—it is a national human rights issue in which we as Catholics have an interest. Abortion is not a Catholic issue—it is an issue of human rights, the right to life, to which Catholics, Orthodox, Jews, Protestants, Muslims, and non-believers have a common commitment.

Have no fear that Catholic bishops are a threat to the separation of Church and State. An advertisement in the October 31 edition of *The Christian Science Monitor*, signed by prominent attorneys from all over the United States, spoke clearly about this danger in these words: “. . . does the habit of speaking out in order to create a consensus affecting public policy violate the Constitution, which proscribes ‘the establishment of a religion?’ If the speaking out is effective and consciences of the voters and office holders are moved—laws will be enacted, policies adopted, funding provided, and education undertaken which is responsive to what the religious leaders have advocated. Do we then have an establishment of religion? Clearly not, unless we are to say that a religion was established when slavery was abolished, or when racial segregation was ended, or

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when the war in Viet Nam was brought to an end. The wall of separation between Church and State has not been breached when moral ideas of Jewish or Christian inspiration were put into practice in governmental action . . .”

The election is over, but the abortion issue remains to be addressed and resolved by our government and by our people. It is my firm intention to continue the public discussion and to encourage others to do so, convinced as I am that we will not move forward effectively on other issues involving life and the quality of life until we as a nation wake up to the fact that we have made our peace with and accepted a shocking and frightening reality—the violent deaths of over fifteen million innocent human lives since 1973, all under the protection of the law of our great country which calls itself the land of the free and the home of the brave.

It is also my hope that you will accurately and adequately assist a real public debate.

I trust you have not forgotten how I began. Lest you have, allow me again to express my gratitude for the space, kindness, and accuracy you have shown me. That includes The Boston *Globe* as well. The telling of my woe of frustration gives occasion to call you as reporters and commentators to objectivity, and to remind myself and others of the need for clarity of expression. Thank you for affording me the time to attempt to speak more clearly to the issue of abortion.

An Almost Absolute Value in History

John T. Noonan, Jr.

WHAT DETERMINES WHEN A being is human? When is it lawful to kill? These questions are linked in any consideration of the morality of abortion. They are questions central to any morality for man.

In answering such moral questions the temptation to invoke historical determinism is not unknown. A species of behavior is said to be right because it inevitably will be practiced and accepted in the future. "Trends" are hypostatized into forces like older theological conceptions of the divine will; they are supposed to exist independently of human volition and to legitimate by necessity the human acts which they require.

Such use of history, I suppose, appears exploitative and dishonest to most men who have tried to discern the thought of the past. In looking at the data and documents of another age, one does not encounter irresistible trends moving with mysterious authority to foreordained results. Order in human history is the pattern made by the historian in his choice of categories and selection of events. What he encounters is a record of human thought with no greater necessity to it than the result of any meeting of human minds.

The rejection of necessity in human development is not a rejection of continuity, recurrences, and even direction in human experience. These philosophical notions, or something like them, appear as preconditions for the perception and organization of historical "facts." Something like organic behavior may be postulated in the experience of groups of men. Ideas do have implications which are sometimes worked out. No value can be pursued alone without its single-minded pursuit endangering other values, so that balance is the condition of stable phases. Human groups mature. To suppose that these characteristics of human behavior constitute suprahuman forces is to replace history with ideology. To ignore the organic character of human experience is to reduce history to chronology.

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History can record insights gained by human beings, insights which once generalized by education are taken as a part of the mental outlook of the persons subject to such education. Such is the insight into the connection between being human and being free. Once men have seen that the determination of their own potential humanity can be injured by the domination of others, they insist on their freedom of action and of thought. The pursuit of freedom as a single absolute, however, is unworkable because the maximum conceivable freedom of action for one man necessarily involves the right to dispose of other men; and any society committed to freedom as a human good must move dynamically toward a balance where freedom for one man is not achieved at the expense of freedom for another.

In the conflict over abortion, the desire of many women to be free from restraints imposed by men and the desire of many contemporary human beings to be free from the domination of sexual codes established by others give dynamic power to any proposal to reject all limitations on abortion. In a society peculiarly conscious of the difference made by age, it is easy to define one class by age so that it is not regarded as even human, so that then there can be no objection to elimination of members of the class whenever a member of it interferes with the freedom of those who are human. In this case, then, there is no need to balance the gain in freedom of some humans by the loss to other humans.

The question remains, Can age be the determinant of humanity? Behind this question, the questions are repeated, What determines when a being is human? When can human freedom be vindicated by killing other human beings? In this chapter I propose to examine these questions as they have been answered in the context of a religious tradition concerned with them since its inception.

The impatience expressed by proponents of abortion with a view asserting the humanity of the fetus sometimes incorporates an elitism which assumes that everyone—that is, every enlightened person, everyone in the ruling group—knows who is human. The elite may become franker and say, Even if the embryo is human, we can distinguish between human lives. Some lives are more valuable than others. To sacrifice a poor, undeveloped life for a rich developed life is a decision which morally can and should be made. More probably, the expedient of the rulers of *Animal Farm* will be adopted, and some lives will be recognized as

more equal than others. To any variety of this viewpoint, a religious teaching which asserts the basic equality of men must seem irrelevant; but it is difficult to extricate the aspirations of the modern world from the assumption of basic equality. A teaching anchored in this assumption may be stronger than the very strong attraction to believe that some lives are more valuable than others.

The teaching of a religious body may invoke revelation, claim authority, employ symbolism, which make the moral doctrine it teaches binding for believers in the religion but of academic concern to those outside its boundaries. The moral teaching of a religious body may also embody insights, protect perceptions, exemplify values, which concern humanity. The teaching of the moralists of the Catholic Church on abortion is particularly rich in interaction between specifically supernatural themes—for example, the Nativity of the Lord and the Immaculate Conception of Mary—and principles of a general ethical applicability. In its full extent, the teaching depends on the self-sacrificing example of the Lord—to the Greeks, foolishness. In its basic assumption of the equality of human lives, it depends on a stoic, democratic contention which any man might embrace and Western humanism has hitherto embraced. In its reliance on ecclesiastical authority to draw a line, it withdraws from the sphere of debate with all men of goodwill; in its caustic examination of principle, it offers instances where the common tools of moral analysis may be observed industriously employed. The teaching in its totality cannot be detached from the religious tradition which has borne it. The teaching in its fundamental questions about the meaning of love and humanity cannot be disregarded by those who would meet the needs of man humanly.

The Context

In the Mediterranean world in which Christianity appeared, abortion was a familiar art. The most learned of Greco-Roman gynecologists, Sorano of Ephesus (c. A.D. 98-138), discussed abortion in terms of two main genres of abortifacients, *phthorion*, “which destroys what has been conceived,” and *ekbolion*, “which expels what has been conceived.” He then listed the following ways of achieving the destruction of the embryo: purging the abdomen with clysters; walking about vigorously; carrying things beyond one’s strength, bathing in sweet water which is not too hot; bathing in decoctions of linseed, mallow, and wormwood; applying poul-

tices of the same decoctions; injecting warm and sweet olive oil; being bled and then shaken after softening by suppositories.¹ He is opposed to the use of sharp instruments which may injure the mother. In addition he lists a number of contraceptives (*atokia*) which will also operate as abortifacients, in particular drugs composed of plant mixtures. These drugs will apparently operate at an early stage of the pregnancy if they have failed to prevent contraception; the abortifacients proper are intended for later stages of fetal life. As to the effectiveness of the means proposed, Soranos notes that contraception is surer and therefore to be preferred, but it would seem that some if not all of the abortifacient methods he proposes would have achieved the desired effect.

The reasons for abortion were as various as the means. Soranos notes three: to conceal the consequences of adultery; to maintain feminine beauty; to avoid danger to the mother when her uterus is too small to accommodate the full embryo. Plato and Aristotle thought of abortion as a way of preventing excess population.² St. Ambrose was familiar with propertied families who practiced it in order not to divide their patrimony among too many children.³

The morality of practicing abortion was debated by physicians, philosophers, and religious teachers. The Hippocratic Oath was well known with its pledge "not to give a deadly drug [*pharmakon*] to anyone if asked for it, nor to suggest it. Similarly, I will not give to a woman an abortifacient pessary. In purity and holiness I will guard my life and my art."⁴ Influenced by the authority attributed to the oath as the work of Hippocrates, some physicians of the first century A.D. refused to prescribe abortifacients for anyone. They also had in mind that "it is the task of medicine to maintain and save what nature has engendered."⁵ Others, like Soranos himself, prescribed abortion only where completion of the pregnancy would endanger the mother. Another writing also ascribed to Hippocrates was cited where he himself told a girl how to accomplish an abortion by jumping.⁶ In the ideal commonwealth sketched by Socrates in Plato's *Republic* abortion was proposed as a solution to prevent endangering the optimum population of the state; it is impossible to say with what seriousness Plato endorsed this suggestion.⁷ Aristotle also proposed abortion if a couple had too many children for the good of the state, but he did so with remarkable caution, saying it is to be done before there is "sensation and life," and "what is right depends on the question

of sensation and life," a restriction which in his biology might have permitted only contraception.⁸

The Old Testament has nothing to say on abortion, but the Hellenic Jews of the diaspora developed an opinion. The Septuagint translation of Exod. 21:22 provided an opportunity. Where the Hebrew had said that when a man accidentally causes an abortion "life is given for life" only if the mother dies, the Greek read "life is given for life" if the embryo is "formed," so that an express penalty was provided for the abortion. In his first-century commentary Philo noted that by implication intentional as well as accidental abortion was thereby condemned. Philo himself associated abortion with infanticide and the abandonment of children, practices of inhumanity which he now found regarded "with complacency" by many nations.⁹

Abortion, indeed, according to contemporary observers, was practiced very generally in the Greco-Roman world. The divided opinions of a few sages scarcely checked the powerful personal motives which made it attractive. The law of the empire punished abortion committed without the father's consent.¹⁰ It also punished the giving of drugs for abortion,¹¹ but it is unlikely that the law was enforced unless the recipient died. The object of the law was not to protect the embryo as a human person, for it was regarded as part of the mother.¹² The purpose was to restrain "bad example," that is, the bad example of giving magical potions which could cause death to the recipient.¹³ As pagan observations and Christian complaints indicated, parents' freedom to dispose of their young offspring was taken for granted by the empire.¹⁴ That the Jews should have children born after their fathers' wills had been made, when heirs were no longer desired by the parents, was a cause for wonder to Tacitus.¹⁵ The Roman upper classes diminished during the empire; the decline was probably due, in good part, to the practice of contraception and abortion.¹⁶

It was in this culture generally distinguished by its indifference to fetal and early life that the Christian teaching developed; it was in opposition and conflict with the values reflected in popular behavior that the Christian word was enunciated. Where some wise men had raised voices in defense of early life so that the question was in the air and yet not authoritatively decided, where even the wisest presented hesitant and divided counsel, where other authorities defended abortion, the Christians proposed a rule which was certain, comprehensive, and absolute.

The Absolute Valuation, A.D. 50-450

The New Testament and the Early Community

The specific Christian teaching on abortion developed in a theological context in which the commands of the Old Testament to love God with all your heart (Deut. 6:5) and to love your neighbor as yourself (Lev. 19:18) were singled out as the two great commandments on which depended “the whole law and the prophets” (Matt. 22:40). The standard for fulfillment of these commandments was set in terms of sacrifice of man’s life for another (John 15:13) and embodied in the self-sacrifice of Jesus. Jesus told the disciples, “This is my commandment, that you love one another as I have loved you” (John 15:32). In terms of his example, the commandment was “a new commandment” (John 13:34). The Christian valuation of life was made in view of this commandment of love.

The place of children in the Christian community was broadly established in the words of the Lord, “Suffer little children [*paidia*] and do not prevent them from coming to me” (Matt. 19:14; Mark 10:14; Luke 18:16). In Luke 18:15, the children the Lord welcomed were expressly described as “newborn babies” (*brephe*). The ethos of the infancy narratives reflected a high interest in infant and fetal life. The infanticide practiced by Herod and its violent threat to the life of Jesus formed the introduction to the life of the Messiah (Matt. 2:1-18). Mary was described as having in her womb what was “from the Holy Spirit” (Matt. 1:18). In Luke she was greeted in pregnancy by Elizabeth “as the mother of my Lord,” and the “fruit” of her womb was then described as “blessed” (Luke 1:42). The infant (*brephe*) in Elizabeth’s womb “leaps” when Elizabeth is greeted by Mary (Luke 1:40). The interest in the behavior of this holy but not miraculous child of Elizabeth and the interest in the life in Mary’s womb reflected the valuations of a community sensitive to the living character of the embryo, and the Gospel accounts must in turn have enhanced that sensitivity. What was unspoken was in its way as important as what was said in reflecting community valuations, attitudes, expectations. It was not necessary in this community to say that a man who protected the state by killing infants was not a good man. It was necessary to say that the first reaction of Joseph to Mary’s unexplained pregnancy was “to put her away” (Matt. 2:19); it was not necessary to say that his first thought was not to procure an abortion.

At the level of specific moral rule, the Apostle Paul denounced the foolish carnality of the Christian community in Galatia (Gal. 3:1-6), reminded them that there was a law which was fulfilled in one word, "Love your neighbor as yourself" (5:14), and set out specific types of behavior which violated this law of love (5:19-21). The works of the flesh included not only "lecheries" and "wraths" but *pharmakeia* (5:20). *Pharmakeia* is a term best translated as "medicine" in the sense in which a North American Indian medicine man makes medicine.¹⁷ It is the employment of drugs with occult properties for a variety of purposes, including, in particular, contraception or abortion.¹⁸ Paul's usage here cannot be restricted to abortion, but the term he chose is comprehensive enough to include the use of abortifacient drugs. The association of these drugs with sins of lechery and wrath was indeed a constant aspect of the Christian approach to *pharmakeia* (the practice of "medicine") and *pharmaka* (the drugs employed).

The same association and same comprehensive use of the term appeared in the *Apocalypse*. The sinners who were not saved "did not repent of their homicides nor their medicine [*pharmaka*] nor their fornications nor their thefts" (9:21). The *pharmakai*, the medicine men, were condemned by the Lord with the homicides and the fornicators (21:8). Those outside the heavenly city were "the dogs and the medicine-men and the fornicators and the homicides and the idolaters and everyone who loves and practices falsehood" (22:15).¹⁹

That abortion could have been specifically in the mind of the authors of *Galatians* and the *Apocalypse*, and that it was specifically dealt with by the early Christian communities, is established by several contemporary writings. The most important is the *Didache*, or *Teaching of the Twelve Apostles*. This ancient and authoritative statement of Christian principles in Syria was composed no later than A.D. 100 and may well have been written much earlier.²⁰ Here a list of precepts was given for the instruction of the Christian: "You shall not kill. You shall not commit adultery. You shall not corrupt boys. You shall not fornicate. You shall not steal. You shall not make magic. You shall not practice medicine (*pharmakeia*). You shall not slay the child by abortions (*phthora*). You shall not kill what is generated. You shall not desire your neighbor's wife" (*Didache* 2:2). In this list of related sins, one sentence expressly prohibited abortifacients. The commands on either side of this sentence dealt with other

aspects of the same sin, as the commandments on sexual sins complemented each other. Abortion was ranked as a principal sin included with those sins expressly named by the Ten Commandments.

In the kernel of the *Didache*, which is probably its oldest part, the Two ways, the Way of Life was contrasted with the Way of Death. The latter way was followed by sinners who included those who practice “medicine” and those who are “killers of the child, who abort the mold [*plasma*] of God.” Again there was a complementary character to the acts denounced: *pharmakeia*, killing of the child, and abortion. The offense of abortion was seen as an offense against God because it attacked what He had made. It was associated with the sinful use of drugs to prevent birth and with the slaying of the child. It may be that both abortion of the mold and killing of the child were mentioned so that any distinction between formed and unformed fetuses would not provide an escape.

The somewhat later *Epistle of Barnabas* was based on the *Didache* and provided a commentary by its paraphrases and additions. It put the commandment on abortion in the *Didache* 2.2 in this framework: “You shall love your neighbor more than your own life. You shall not slay the child by abortions. You shall not kill what is generated” (*Barnabas* 19.5). The proscription was thus related to the love of neighbor. The killing of the fetus to save one’s own life was implicitly rejected.

A third writing is of special relevance to the teaching of the canonical Apocalypse. This is the *Apocalypse of Peter*, a species of apocalyptic literature which “ranked next in popularity and probably in date to the canonical Apocalypse of St. John.”²¹ Here there was a pit of torment for sinners, among them women “who have caused their children to be born untimely and have corrupted the work of God who created them.” The phrasing was close to the “abort the mold of God” of the Way of Death in the *Didache*. Some of these women had conceived the children in fornication; others had husbands who were punished with them because “they forsook the commandments of God and slew their children.”²² The offense described as killing what God had made, an offense heightened because it was mothers who had killed their own offspring.

The Fathers

Later in the second century the writing of the “most learned” of the Fathers, Clement of Alexandria, also contained a statement on abortion.

THE HUMAN LIFE REVIEW

In the *Pedagogus* Clement, the founder of the first school of Christian theology, sought to present Christ as the supreme educator for Christians and to provide teaching on Christian morality to the turbulent Christian community at Alexandria. He declared that Christians do not, in order to hide their fornication, “take away human nature, which is generated from the providence of God, by hastening abortions and applying abortifacient drugs [*phthoriois pharmakois*] to destroy utterly the embryo and, with it, the love of man.”²³ Here there is the same nexus of ideas found in the first century. Drugs to destroy offspring are associated with lechery. Their use is condemned not merely because they furnish an aid to sexual sin or incorporate magic, but because they offend God in destroying what He has shaped and because they violate the love of neighbor in destroying the fetus.

The foregoing documents were all addressed to Christian communities containing converts and were directed to impressing the new Christian morality upon them. Other evidence of Christian belief is furnished by the Christian claims addressed to the pagans. The contention was made that Christians are “homicides or devourers of men.” The second-century philosopher and Christian convert Athenagoras answered this charge in his apologia for Christianity to the emperor: “How can we kill a man when we are those who say that all those who use abortifacients are homicides and will account to God for their abortions as for the killing of men. For the fetus in the womb is not an animal, and it is God’s providence that he exist.”²⁴ The dedicated Christian defense of life at the embryonic stage seemed to Athenagoras the surest proof of the Christian reverence for life.

In a similar vein the lawyer Minucius Felix repelled the charge of infanticide in his apologia (c.190-200): Who would believe that the tender bodies of infants would be destroyed? “No one would believe it unless he dared it.” In charging this crime the pagans revealed their own conduct. They expose their unwanted children to wild beasts and birds or strangle them. “By drinks of drugs they extinguish in their viscera the beginning of a man-to-be and, before they bear, commit parricide.” These things are derived from their gods, for Saturn devoured his own children.²⁵ The use of the term *parricidium* is especially striking here. Roman law had no generic term for the “killing of a man,” and so Minucius used the closest legal term in use, “parricide,” the killing of a near relation,

designating a crime punished with great severity by the law. It conveyed the idea of heinous killing at the same time that Minucius expanded its meaning far beyond its recognized legal meaning to encompass abortion.²⁶ In describing the pagans' practice, he expressed his own judgment that it was wrong. At the same time he made the suggestion, of much psychological interest, that the Greek myth of a god devouring his children was related to abortion.

In a parallel passage Tertullian in his apologia to the pagans dismissed the charge of infanticide practiced by Christians and asserted: "For us, indeed, as homicide is forbidden, it is not lawful to destroy what is conceived in the womb while the blood is still being formed into a man. To prevent being born is to accelerate homicide, nor does it make a difference whether you snatch away a soul which is born or destroy one being born. He who is man-to-be is man, as all fruit is now in the seed."²⁷ The substance is the same as the Two Ways: the mold in the womb may not be destroyed. The offense is expressed as the killing of a potential human, an act which seems forbidden by the commandment, "You shall not kill."

In his treatise on ensoulment Tertullian appealed to a mother's experience of the being within her to establish that a living and therefore ensouled being existed in pregnancy: "In this matter, there is no more fitting teacher, judge, witness, than one of this sex. Reply, you mothers, you bearers of children, let the sterile and the masculine be silent, the truth of your nature is sought." He continued the argument by noting that dead embryos were extracted from a womb and asked,

How are they dead unless they were first alive? But still in the womb an infant by necessary cruelty is killed when lying twisted at the womb's mouth he prevents birth and is a matricide unless he dies. Therefore there is among the arms of physicians an instrument by which with a rotary movement the genital parts are first opened, then with a cervical instrument the interior members are slaughtered with careful judgment by a blunt barb, so that the whole criminal deed is extracted with a violent delivery. There is also the bronze needle by which the throat-cutting is carried out by a robbery in the dark; this instrument is called an embryo-knife from its function of infanticide, as it is deadly for the living infant. This Hippocrates taught, and Asclepiades, and Erasistratus and Herophilus, the dissector of adults, and the milder Soranos himself—all of them certain that a living being had been conceived and so deploring the most unhappy infancy of one of this kind who had first to be killed lest a live woman be rent apart. Of this necessity of crime, Hicesius, I believe, did not doubt, as he added souls to those being born from blows of cold air, because the word itself for "soul" among the Greek relates to such cooling.²⁸

Tertullian is here not making direct moral judgments, as he is focusing on the argument that even this kind of fetus has been alive. But the suggestion of Franz Dölger that this passage accepts therapeutic abortion is clearly wrong.²⁹ What the physicians find necessary Tertullian finds a crime, and he uses the strongest terms of vituperation to stigmatize it—“slaughtered” (*caeduntur*), “victim of a crime” (*facinus*), “throat-cutting” (*iugulatio*, a fierce, vulgar term), “infanticide” (*infanticidium*), “crime” (*scelus*). His harsh and sarcastic rhetoric deliberately contrasts the “careful judgment” of the physician with the “violent delivery” effected like “a robbery in the dark.”

In addition to its expression in formal moral teaching and apologies to the gentiles, the Christian belief was expressed in the course of controversy within the Church. Abortion was a serious charge in ecclesiastical disputes. When the ex-slave Calixtus, bishop of Rome, permitted Christian women to marry their slaves though the marriages were unrecognized by Roman law, some women did not want to draw attention to their union, and used drugs to produce sterility or “bound themselves tightly to expel a fetus already engendered.” According to Calixtus’ critic and bitter rival, Hippolytus, this conduct was homicide, and Calixtus was responsible for encouraging it.³⁰ When Novatian broke from Rome because its bishop accepted the repentance of apostates, his foe Cyprian wrote of him that he was himself guilty of serious sin: he had struck his pregnant wife to cause an abortion. He has “committed parricide”; “he has killed a son who was being born.”³¹ A lawyer like Minucius, Cyprian used the legal term “parricide.” The charge of a crime inexpiable in life was no doubt especially effective against a man who denied others an opportunity to repent.

As the Church emerged as a legal religion and a social force in the fourth century, the sentiments on abortion so uniformly expressed in the first two centuries of Christian life took the form of legislation. There already existed a rule excluding from the Church for life women who conceived in fornication and committed an abortion. The Council of Ancyra in 314, a gathering of a dozen Eastern bishops representing Syria and Asia Minor, denounced such women, who “slay what is generated and work to destroy it with abortifacients”; but “more humanely” the Council reduced their penance to ten years.³² The Council retained the life penance for voluntary homicide, so that the reduction marked a

recognition of mitigating circumstances in the character of the crime, while its gravity was indicated by the still severe penalty imposed. In the West, in some contrast, the movement was toward greater sanctions. At Elvira on the Iberian peninsula, a council held in 305 excommunicated women committing abortions after adultery and declared that they were not to be readmitted even at the point of death.³³

These laws, like the earlier condemnations, made no distinction between the formed and the unformed fetus. In the course of the fourth century this distinction, based for Christians on the Septuagint translation of Exod. 21:22, became a focus for analysis. In the East the *Apostolic Constitutions*, an apocryphal set of apostolic canons from Syria, condemned the killing of a "formed fetus."³⁴ In the West, St. Jerome explained to a female correspondent, Algasia, that "seeds are gradually formed in the uterus, and it is not reputed homicide until the scattered elements received their appearance and members."³⁵ Augustine, commenting on a Latin translation from the Septuagint, observed that at Exod. 21 the question of ensoulment was usually praised, and "because the great question about the soul is not to be hastily decided by unargued and rash judgment, the law does not provide that the act pertains to homicide, for there cannot yet be said to be a live soul in a body that lacks sensation when it is not formed in flesh and so not yet endowed with sense."³⁶ This was a distinction accepted out of a cautious agnosticism on ensoulment; both Jerome and Augustine affirmed that, in fact, man did not know when the rational soul was given by God.³⁷

As far as Jerome and Augustine were concerned, the theoretical distinction led to no difference in moral disapprobation. They simply adopted language broad enough to condemn both contraceptive acts and acts destroying the fetus after contraception. Jerome wrote to his star pupil Eustochium on how to preserve her virginity among the temptations to adolescents in Rome. He denounced those Christian girls who, saying "all things are pure to the pure," had affairs and sought to prevent or conceal pregnancy. Some "will drink sterility and kill a man not yet born." Others will use potions to commit abortions. These are parricides, and as sometimes the abortifacients are fatal to them, too, they go to judgment thrice condemned as adulteresses, killers of their children, and killers of themselves.³⁸ Here, in the language of Minucius, abortion became parricide, and the age of the fetus was unmentioned.

Augustine in his anti-Pelagian work, *Marriage and Concupiscence*, analyzed abortion with his usual attention to psychology. Using terms that seem to anticipate modern analyses of sadism, he described it as the work of minds characterized by “lustful cruelty” or “cruel lust.” Speaking of the married who avoided offspring, he declared, “Sometimes [*Aliquando*] this lustful cruelty or cruel lust comes to this that they even procure poisons of sterility, and if these do not work, they extinguish and destroy the fetus in some way in the womb, preferring that their offspring die before it lives, or if it was already alive in the womb, to kill it before it was born. Assuredly if both husband and wife are like this, they are not married, and if they were like this from the beginning, they come together not joined in matrimony but seduction. If both are not like this, I dare to say that either the wife is in a fashion the harlot of her husband, or he is an adulter with his own wife.”³⁹ Augustine thus condemned three kinds of act: contraception, the killing of the fetus before it is formed or “lives,” and the killing of the live fetus. The analysis was a new approach in treating each of these acts as a sin against marriage.⁴⁰

The preservation of life within the womb also became a reason for restricting what St. Paul in the First Epistle to the Corinthians had set out in terms of justice, the right to intercourse within marriage (1 Cor. 7:3-5). Led by Stoic thought to restrict intercourse to procreative purpose alone, many Christian writers prohibited the necessarily nonprocreative intercourse of the pregnant. But an additional reason for the prohibition was found in the danger to the embryo that such intercourse was believed to create. Commenting on the pregnancy of Elizabeth in the Gospel of Luke, Ambrose stated the belief that intercourse in pregnancy “contaminated” the offspring.⁴¹ Even more forcefully, Jerome incorporated a quotation from Seneca vigorously attacking intercourse from “affection,” not “judgment,” and urging restraint at least in pregnancy, so as not to “destroy the offspring.”⁴² Thus the risk of abortion became a reason for limiting what St. Paul had described as a duty.

The principal texts quoted from Jerome and Augustine were to be the *loci classici* on abortion in the West. In the East, St. John Chrysostom preached against abortion as encouraged by married men engaged in intercourse with prostitutes: “You do not let a harlot remain only a harlot but make her a murderess as well.”⁴³ In the most definitive statement by a leader of the Greek Christian community, St. Basil of Cappadocia set out

in a letter to Amphilocius the standards of the Church as he knew them in the late fourth century. The distinction founded on the Septuagint was rejected: "The hair-splitting difference between formed and unformed makes no difference to us." "Whoever deliberately commit abortion are subject to the penalty for homicide."⁴⁴ The penance, however, was that set by Ancyra: ten years. Unlike Ancyra, Basil did not restrict his condemnation to women who conceived in fornication. Like Jerome he noted that often the potions killed the mothers, too. Like the *Didache*, he made his condemnation repetitiously: In general, sodomists, homicides, medicine men (*pharmakoi*), adulterers, and idolators were condemned together;⁴⁵ specifically, those were classed as homicides who "gave abortifacient drugs" (*amblōthridia pharmaka*) and those who "receive what entraps the embryo."⁴⁶ Basil's comprehensive summing up on abortion in a document later characterized as "The Canonical Letter" was to constitute the fundamental norm on this behavior for the Greek Church.⁴⁷

By 450 the teaching on abortion East and West had been set out for four centuries with clarity and substantial consistency. There was a distinction accepted by some as to the unformed embryo, some consequent variation in the analysis of the sin, and local differences in the penance necessary to expiate it. The sin itself was often associated with lechery, sometimes with marriage. The usual method of accomplishing abortion was by drugs, sometimes associated with magic, sometimes with danger to the user. The motive animating it was seen variously as shame, as avarice, as lust. Although therapeutic and social reasons for abortion were known from the best of doctors and philosophers, these reasons were never mentioned as justification. All the writers agreed that abortion was a violation of the love owed to one's neighbor. Some saw it as a special failure of maternal love. Many saw it also as a failure to have reverence for the work of God the creator. The culture had accepted abortion. The Christians, men of this Greco-Roman world and the Gospel, condemned it. Ancient authorities and contemporary moralists had approved, hesitated, made exceptions; the Christian rule was certain.

Transmission, 450-1450

In the period from 450 to 1100, when monks and bishops were the chief transmitters of Christian moral ideas, the teaching on abortion was reiterated. It was conveyed by enactments against abortion by local syn-

ods.⁴⁸ It was conveyed by collections which contained the canons of Elvira or the canons of the more prestigious council of Ancyra. By the eighth century Ancyra was the law of the Frankish kingdom of Charlemagne.⁴⁹ It was conveyed by collections which contained St. Jerome on homicide by abortifacients.⁵⁰ The penitentials developed by the monks for use in hearing confession regularly prescribed specific penances for abortion, ranging from one to ten years for the killing of an embryo.⁵¹ When interrogatories for use in questioning penitents were devised in the tenth century, questions on abortion were included.⁵² The early Christian and patristic attitudes were faithfully preserved in the various channels communicating the teaching of past authority and instilling its observance.

Liturgy and Canons

Interest in the conception of the Lord was fostered by popular reflection on the Gospel stories, and the liturgical embodiment of this reflection also played a part in the development of reverence for life in the womb. The December 25th feast of the Nativity of the Lord was established by the late fourth century. By the seventh century in the East a feast was established marking the Annunciation to Mary or "the Conception of Christ."⁵³ This feast was established on March 25, with the implication that nine months had elapsed between conception and birth, and with the further implication that what had come from the Holy Spirit to Mary had been holy from the moment of conception. The feast of the Conception of Christ, it may be supposed, served, beyond its primary meaning, as a symbol of the sacredness of any conception. In the late sixth century there also came into existence in the East the feast of the Nativity of Mary, fixed on September 8.⁵⁴ A century later the feast of Mary's conception by St. Anne was established on December 9 with an elaborate vigil on December 8.⁵⁵ The prayers in the office of the day rejected the belief that Mary had been "born after seven months,"⁵⁶ an apparent repudiation of the view that her soul was infused after her conception. The feast in honor of Christ's conception could be explained as a feast for conception of a divine man; but the conception of Mary was believed to be the conception of a human being by the intercourse of humans. The recognition that she deserved honor at conception had specific implication for the humanity of all men.

In the great formative period of Western canon law between 1140 and 1240, and in the course of the contemporary conflict with the Cathars,

who opposed all procreation, Augustine on abortion was incorporated in the basic collection of canons made by Gratian. There, in a section devoted to marriage, appeared the Augustinian denunciation of the lustful cruelty of the married who procured abortions. It was now the canon *Aliquando*.⁵⁷ Until the new Code of Canon Law in 1917 this text was to instruct all students of the canon law. It was supplemented by Gratian's answer to a question he himself proposed, "Are those who procure an abortion homicides or not?" The answer was supplied by Jerome to Algasia and Augustine on Exodus, quoted earlier, plus a spurious quotation from Augustine which taught expressly that there was "no soul before the form."⁵⁸ Clearly, in Gratian, abortion was homicide only when the fetus was formed.

The distinction was reaffirmed in slightly different language by Innocent III. A priest incurred "irregularity," that is, he was suspended from his functions, if he committed homicide. The case was put of a Carthusian monk who in playing had accidentally caused his mistress to abort. Was he irregular? Innocent III held that he was, if the fetus was "vivified." The decretal entered the universal law of the Church in the decretal collection of Gregory IX as the canon *Sicut ex* in the comprehensive section entitled, "Voluntary and Chance Homicide."⁵⁹ "Vivified" was treated as the equivalent of "ensouled," and the decretal was seen as implying that homicide occurred only after ensoulment had taken place according to the texts furnished by Gratian.⁶⁰

At the same time the decretals of Gregory IX provided a new canon, *Si aliquis*, derived from a tenth-century penitential of Regino of Prüm. *Si aliquis* declared: If anyone for the sake of fulfilling lust or in meditated hatred does something to a man or a woman, or gives them to drink, so that he cannot generate, or she conceive, or offspring be born, let it be held as homicide."⁶¹ The canon thus applied the penalty for homicide to contraception and to abortion at any stage of fetal life. How was it reconcilable with *Sicut ex*? The usual answer was that *Si aliquis* merely stated that the acts it condemned were to be punished "as homicide." It set the law for all persons. *Sicut ex* added the extra penalty of irregularity for clerics only in the case of true homicide.⁶² Thus the ordinary law of *Si aliquis* went beyond what was held to be speculatively true by declaring that, for practical purposes of penance, abortion of any fetus must be put on a par with the killing of a man.

The concern with the sanctions for abortion was not a mere academic exercise. A wide variety of techniques for abortion was provided to medieval physicians and students by the *Canon of Medicine* of Avicenna, translated from Arabic to Latin by Gerard of Cremona about 1150 and thereafter until the middle of the seventeenth century the standard text of European medical schools.⁶³ Avicenna taught that abortion might sometimes be necessary where birth would endanger the life of the mother. For such cases he set out a list of measures. They included exercise, the carrying of heavy weights, the evacuation of the humors, the insertion by instrument in the matrix of drugs to kill the fetus, and the drinking of various drugs in potions.⁶⁴ Baths, excessive exercise, and violent jumping were also observed to be causes of abortion.⁶⁵ Abortion was said to be most likely at the beginning and near the approach of birth.⁶⁶ A number of the means described were doubtless effective to accomplish their objective. The information about them was communicated by the wide distribution of the *Canon of Medicine* itself and by books deriving their information from it. St. Albert the Great, for example, in his encyclopedic work on plants described the abortifacient properties of several vegetables; writing on animals he told how to accomplish an abortion.⁶⁷ His principle source was Avicenna.

The analysis and treatment given by the canon law dominated both canonical and theological treatment of what was not an unknown sin. Many writers, influenced by *Si aliquis*, followed the suggestion of Hostiensis that the use of "poisons of sterility" was "interpretively homicide" in both contraception and early abortion.⁶⁸ Among those classifying abortion as a form of homicide were the great lay canonist Joannes Andreae, the Franciscan summists Monaldus and Astesanus, the English canonist William of Pagula, and the German Dominican John Nider.⁶⁹ In the same way Chaucer's Parson classified the destruction of the fetus among the sins of wrath.⁷⁰

Theological Analysis

For those who gave more weight to the express canonical texts on ensoulment a different approach to early abortion was necessary. In the standard book of the schools, the *Sentences* of Peter Lombard, the texts chosen by Gratian were repeated. As in Gratian's framework, *Aliquando* formed a central passage in the analysis of the purposes of marriage.⁷¹

The pseudo-Augustinian citation on ensoulment in Gratian was confidently repeated to show that the soul was not inserted until the body was formed.⁷² Peter Lombard himself observed, “From this it appears that they are homicides who procure an abortion when the fetus is ensouled.”⁷³ The implication left by the *Sentences* from the use of *Aliquando* was that before ensoulment abortion was a sin against marriage. This judgment was explicitly made by St. Albert speaking of use of “the poisons of sterility,” the generic term for both contraceptives and abortifacients.⁷⁴ In his youthful commentary on the *Sentences*, St. Thomas Aquinas treated the use of these drugs as a sin “against nature because even the beasts look for offspring.”⁷⁵ He did not repeat this analysis again, and it was not in harmony with his later treatment of sins against nature as sins preventing insemination in intercourse.⁷⁶ He was clear that there was actual homicide when an ensouled embryo was killed.⁷⁷ He was equally clear that ensoulment did not take place at conception.⁷⁸ There was sin, but not the sin of destroying a man in destroying the conceptus in its early stage, for “seed and what is not seed is determined by sensation and movement”; this phrase seems to mean that, at the early stage, seed is being destroyed, not man.⁷⁹ The result was that there was a period of fetal existence where Thomas’ later writing did not specify the offense involved in fetal destruction yet where, according to his clear opposition to contraception, he believed a sin was being committed. It was, however, according to both Albert and Thomas, mortal sin to have intercourse in pregnancy with the risk of abortion. Moreover, both accepted Avicenna’s opinion that such risk was especially acute at the beginning.⁸⁰ Hence, even in the early state of pregnancy, they held the life of the fetus more valuable than the obligation of the marital debt.

As for deliberate abortion, Thomas considered only one case where justification was alleged, but it was the case with the greatest appeal in a theologically-oriented society: the case of abortion for the child’s own good, abortion to baptize the child. In medieval society this case had the appeal of abortion of a defective child in a modern society. In the medieval case it would have been to prevent the child from suffering eternal loss of happiness, as in the modern case it would be to prevent the child from suffering the loss of secular happiness. Why not “split the mother” and extract the fetus, so that, baptized, he “may be freed from eternal death”? To this appeal Thomas replied, “Evils are not to be done that

good may come from them, Romans 3; and therefore a man ought rather to let the infant perish than that he himself perish, committing the criminal sin of homicide in the mother.”⁸¹ The text cited from St. Paul was in itself not decisive; the reference was to a rejection by Paul of his opponents’ charge that “we do evil that good may come” (Rom. 3:8). What was decisive was the perception that God’s providence could not be anticipated by a paternalism which would have permitted man to act as God in determining human life and assuring its salvation.

The case of abortion for the child’s own good was rejected. What of abortion to save the mother? Thomas did not face the case expressly, but he posed broader principles of relevance; and, as the case itself was known as a medical problem from Avicenna, it cannot be supposed that he was unaware of the relation of the principles to therapeutic abortion.⁸² The question was put, “Is it lawful for someone to kill someone in defending himself?” The case posed was not, as many later interpreters would have it, a case of unjust aggression. When Thomas wanted to characterize the one being killed he used the terms “sinner” and “innocent.”⁸³ Here the one killed was merely “someone.” His answer to the question was, “If someone kills someone in defense of his own life, he will not be guilty of homicide.”⁸⁴ The conclusion was based on the principle that “nothing prevents there being two effects of a single act.” One effect could be “in intention,” the other, “beyond intention;” and by intention Thomas meant the mental state of the person killing, for the act itself had as *finis operis* the double end of preservation of life and the killing of another. The act was lawful, because “what was intended was the preservation of one’s own life.” This intention was not sinful, for it is “natural to everyone to preserve himself as far as he can.” The justification was necessity. Fornication, for example, was a lesser sin, but was always mortal, for “it is not ordered to the preservation of one’s own life from necessity like the act from which homicide sometimes follows.”⁸⁵ Put another way, every lie is a sin, and homicide is a worse sin than lying; yet, unlike lying, homicide can sometimes be lawfully done “as when a judge kills a thief.” Hence one can say, “Homicide imports not the killing of a man;” it imports “the undue killing of a man.” You can then conclude, “Homicide is never lawful, although it is sometimes lawful to kill a man.”⁸⁶

From these principles, that all killing is not forbidden, that one may

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lawfully act to preserve one's own life, and that an indifferent act may be justified by a good intention, an argument could be made to justify abortion to save the life of the mother. Much would depend on how absolutely Thomas meant his declaration in other contexts that "in no way is it lawful to kill the innocent."⁸⁷ If the statement held literally, it would seem to preclude capital punishment for a repentant thief, who has become innocent, as most men become innocent, by repentance; yet Thomas justified capital punishment. Applying the principle absolutely, he would have held sinful many acts in warfare such as the killing of enemy soldiers who were in good faith or the killing of infants in attacking a fortress. It cannot be said definitively how Thomas would have answered in these cases or in the case of therapeutic abortion to save the mother's life.

In summary, the monks had transmitted the apostolic and patristic prohibition of abortion. The canon law set it out as a universal requirement of Christian behavior. The theologians explored the relation of the law to the theory of ensoulment, but on one basis or another condemned abortion at any point in the existence of the fetus. The prohibition was still absolute. But the basis for weighing the life of the embryo against other values had been laid, and in the next period of development a balance was to be sought.

The Balance of the Casuists, 1450-1750

Therapeutic Abortion

The work of St. Antoninus of Florence may be taken to mark the beginning of a new era of thought on abortion, for he brought into the main line of moral theology an opinion of an obscure thirteenth-century theologian in favor of abortion to save the mother. His author is another Dominican from Thomas' country, John of Naples, in 1315 teacher at Paris, later holder of a chair of theology at Naples.⁸⁸ John based his position on the distinction between the ensouled and unensouled fetus in addressing himself to the duty of the physician. A doctor sinned in giving medicine to cause an abortion "to preserve a pregnant woman" when the fetus was ensouled, for, when "one cannot help one without hurting the other, it is more appropriate to help neither." But if the fetus was not ensouled, then the physician "ought to give such medicine," because

“although he impedes the ensoulment of a future fetus, he will not be the cause of death of any man.”⁸⁹

It cannot be said that Antoninus adopted this opinion as his own. He quoted it in his treatise on the sins of the different professions and added the remark that, if there was a doubt as to the ensoulment, the physician sinned mortally “because he exposes himself to the risk of mortal sin, that is, to homicide.”⁹⁰ He had earlier spoken as though all abortion were homicide, though only the killing of the formed embryo was so held by the law.⁹¹ In reciting the opinion of John of Naples he did not withdraw his earlier views, but must have considered that John of Naples’ opinion was also probable.

Sixty years later a less important but influential Dominican, Sylvester da Prieras, followed Antoninus’ example. He quoted John of Naples with the same caution as to where there was doubt of ensoulment.⁹² The leading Dominican moralists, Cajetan and Soto, made no comment of any kind. Then the opinion was formally embraced by Martin Azplicueta, “the doctor of Navarre,” the guide in moral questions of three popes, and the leading canonist of the sixteenth century.⁹³ Where the physician “believed with probability” that the fetus was not ensouled, he was not the cause of death of another.⁹⁴ Azplicueta was under Gregory XIII a principal consultor of the Sacred Penitentiary, the Roman tribunal for deciding cases of conscience submitted to confessors, and he noted elsewhere that the rule of the Penitentiary was to treat a fetus over forty days as ensouled.⁹⁵ Hence therapeutic abortion was accepted in the case of the fetus under this age.

To this point no one had attempted to set out a complete theoretical defense of therapeutic abortion or to distinguish it from contraception for medical reasons. Defense and distinctions were the work of the great Spanish specialist on marriage, the Jesuit Tomás Sanchez (1550-1610). His theory was highly dependent on his new analysis of the malice of contraception. It was always evil, he argued, to ejaculate semen and prevent it reaching the vagina, because man could not be trusted with “the administration of the seed,” for the pleasure experienced was too great to make him a responsible administrator; he might seek this pleasure as his “sovereign good.”⁹⁶ There was, therefore, an absolute prohibition of acts preventing insemination in intercourse even if the acts were necessary for health. The sole exception was in the case of rape. Here the semen emit-

ted was not in possession. To expel it lawfully the victim must act at once. If she did so, she acted as properly as a property owner who was entitled to pursue and strike a thief until he had reached a safe place.⁹⁷ In this case, apparently, Sanchez believed there was no risk of abuse of conceding human beings power to dispose of the seed.

With these distinctions made, Sanchez could argue that while the prohibition of contraception was general, the prohibition of abortion had exceptions. The conceptus, in the intermediate state between being semen and being an ensouled human, was open to attack. *Si aliquis* applied only if the abortion was to hide sin or further lust. Where the mother would otherwise die, and the fetus was not ensouled, its killing, "more probably," was lawful.⁹⁸ In this case, "the fetus invades, and, as it were, attacks." The fetus was described not as unjust, but as dangerous. Unlike contraception, there was no administration of the seed, no danger of "too great delight." Moreover, where contraception was urged for health, there was no present attacker, and the alternative of abstinence was available. Here, by hypothesis, destruction of the attacker alone could meet the danger.⁹⁹

Having set up the strongest case, Sanchez considered three more difficult extensions. Suppose the girl had conceived in unlawful coitus and her relatives would probably kill her if they discovered that she was pregnant. Might she kill the fetus to save her life? Again Sanchez thought it more probable that she could. Suppose she was betrothed to one other than the man who had impregnated her, could not without scandal terminate the engagement, and ran the risk of bearing another's child to her husband. Could she avert the danger by destruction of the embryo? Sanchez believed she could.¹⁰⁰ There was, too, no mortal sin in intercourse just after conception, where the medical biology of the day indicated that the risk of abortion was high. The intercourse itself was lawful; the loss of "the unformed matter" was not "such a great loss" as to be mortal sin.¹⁰¹ In contrast, if an abortion were merely to protect a girl's reputation, the peril was too remote, the fetus not an attacker, and abortion would be unjustified.¹⁰² It was apparent that once other values were allowed to be weighed against the embryo's life, fine scales indeed were necessary to make a just balance.

The subhuman character of the unensouled fetus authorized man to prefer other values to its existence. What of the ensouled fetus where

medicines necessary for the mother's health would endanger it? Sanchez made a distinction. If the means "tended directly" to killing the embryo, as would its wounding or beating or the use of poisonous drugs directed to its death, they were not lawful. Nor were they lawful if there were a doubt as to the ensoulment of the fetus, for "it is intrinsically evil to procure the death of the innocent or to expose oneself to the risk of doing so."¹⁰³ But other means which endangered the embryo also served the health of the mother. These included the opening of her veins, the cleansing of the uterus, baths—all listed by Avicenna as abortifacient. Sanchez held that they were lawful even if they were equally directed to the killing of the fetus and the salvation of the mother, for she "principally intends her own life." She was not bound under pain of sin to prefer the embryo's physical life to her own. Charity did require that she sacrifice herself only if the child could be born and baptized and so assured of spiritual life; but that the infant could be born if the mother died "is very rare and morally impossible."

To justify his conclusion Sanchez invoked the passage from St. Thomas on the double effect of an act of killing which saved one's life. There was, it would seem, a failure to take this passage as far as it logically might have carried, for by itself it implied the rightfulness of any abortion necessary to save life. As necessarily must often happen in moral reasoning, Sanchez checked this logical implication by assigning a higher value to innocent life where the means used were such as only to harm it. The distinction he made was not logical, but the point at which he struck a balance. By his statement on means which equally served the mother and killed the fetus, he made the intention of the mother, not the *finis operis*, decisive.

Sanchez buttressed this application of Thomistic principle by analogy drawn from the scholastic theory of the just war. In a just war, "when a city is burnt in which it is established that there are many innocent such as infants," the burning is lawful, "as experience teaches and as all state in the treatise of war." In the case proposed, "just war is waged against lethal humors by applying medicine." The argument was confirmed by commonsense analogy: If a pregnant woman were attacked by a bull, she could run though running caused an abortion; so here she could use the means necessary to save her life.¹⁰⁴

These illustrations, like Thomas Aquinas' original example, each

involved an act where one end or intention of the act itself was the killing of an innocent human being. Another example of the same sort, approved by the acute Belgian Jesuit, Leonard Lessius, was the killing of an infant in escaping from an enemy threatening one's life. It was, Lessius taught, lawful to step on and kill an infant who was in the route of escape. He quoted Cajetan commenting on Thomas, "to kill the innocent *per accidens*, by doing a lawful and necessary act is not against a natural, divine, or human law."¹⁰⁵ With this principle generally accepted, it was not a serious restriction on therapeutic abortion for Lessius to take a different path from Sanchez on the killing of the unensouled fetus. Not "condemning" the opinion of "our Sanchez," Lessius reached a different formal result in that case, because he did not accept the explanation Sanchez gave why contraception was prohibited. The common opinion of moralists was that contraception was wrong because it was "against the nature of generation." Accepting this approach, Lessius concluded that abortion was even more "against the nature of generation." Consequently, one could not deliberately act for this purpose.¹⁰⁶ But the practical result was the same as Sanchez's, for Lessius simply extended to all therapeutic abortion what Sanchez had reserved for the ensouled embryo. For a mother to take medicine to save her life was lawful, provided the killing of the fetus was "beyond her intention." Indeed Lessius explicitly recognized that he thus reached the same result as Antoninus and Sylvester; what they meant, he said, was that the killing was lawful as long as there was no "direct intention" to kill. From the examples given, it was evident that "direct intention," was distinguished from "indirect intention" or killing "per accidens," not by the physical acts which were done, but by the dominant purpose of the mother; the intent to kill was indirect if the dominant purpose was to save her own life.

Almost a century and a half later, when St. Alfonso de' Liguori made his masterly summation of the work of the casuists, he reached the conclusion of Lessius. Under the general heading, "Is it sometimes licit to kill the innocent?" and under the specific heading, "Is it sometimes lawful to procure an abortion?" he held that Sanchez's opinion permitting the intentional killing of the unformed fetus to save the mother was a probable opinion. But the "more common opinion" held that as it was never licit to expel the seed, even in rape, "so much less is it lawful to expel the fetus which is closer to human life." The more common opinion was

“safer” and therefore to be followed.¹⁰⁷ Moreover, there was no point to the first opinion because, “as our Father Busenbaum says, ‘Why take a drug directly to expel the fetus when one can—and it suffices—expel it indirectly?’” The reference to Busenbaum was to the German Jesuit whose treatise on moral theology was the text taken by Liguori for his own exposition of doctrine. Busenbaum, quoted by Liguori, had further taught that if it is judged that the mother of an ensouled embryo will die unless she takes medicine fatal to the fetus, “it is lawful to take it, and, according to some she is bound to take it, intending directly only her own health, although indirectly and consequently the fetus is destroyed.”¹⁰⁸

In principle, then, lawfulness turned on the mother’s intention. But the logic of one principle never rules the solution of a complex moral problem. Like Sanchez, Liguori introduced the distinction of means “tending directly” to kill the fetus, such as blows and wounding, and held those illicit while allowing the cutting of the mother’s veins, purging of her body, and baths. Moreover, the threat to the mother’s life had to be immediate. The danger of death in childbirth was “far distant,” the fetus was not a “present aggressor,” and abortion was not justified to avert the danger; a fortiori, the danger of being killed by relatives was not justification for the mother. With these reservations stated, therapeutic abortion to save the mother from immediate danger was permitted; the intention to save her own life must predominate; only some means were permitted. The balance struck by the casuists and now set out by St. Alfonso treated the embryo’s life as less than absolute, but only the value of the mother’s life was given greater weight.

Papal Legislation

The tendency of casuistic examination of abortion had been to question the absolute prohibition. An opposite tendency, to reinforce the prohibition, may be discerned in the legislative activity of the papacy. The difference between legislation and speculation was at least as old as the *Decretals* of Gregory IX, where *Si aliquis* took a far stronger stand on abortion of the unformed fetus than the majority of contemporary theorists did. The same split may be observed in the nineteenth and twentieth centuries between legislative severity and theoretical hesitancy. The difference does not lie in the difference between canonists and theologians; instances of canonists on the softer speculative side and theologians on the

harder legislative side are not rare.¹⁰⁹ The difference seems to lie in the work being done. The tendency of the legislator has been prudential or paternalistic, seeking to safeguard as strongly, certainly, and absolutely as possible the rights of the embryo unable to defend itself.

In the period of the great casuists there were two bursts of this legislative prudence. One occurred in the reforming reign of Sixtus V and reflected not so much a prudential concern for the embryo as a split of judgment as old as Ancyra and Elvira. Although *Si aliquis* had been canon law for over three hundred years, the Sacred Penitentiary by the time of Gregory XIII did not treat as homicide the killing of an embryo under 40 days. Even where the embryo over 40 days was sinfully destroyed, the Penitentiary made less difficulty about dispensations than when an adult human was killed. The reason was not that the older embryo was regarded as subhuman, but the influence of the canon *Sicut ex* and the observation that an embryo was rarely killed in hatred. The cases regularly involved women who had conceived in fornication and killed to protect their reputations and men who counselled them to do so to save their own. Like Ancyra, the Penitentiary saw the motive of protecting reputation as extenuation.¹¹⁰

Sixtus V had another view, the view of Elvira, that abortion as an adjunct to fornication intensified the evil. In the course of a campaign largely aimed at prostitution in Rome, on October 29, 1588, he issued the bull *Effraenatam*. The pope invoked *Aliquando* and asked rhetorically, "Who would not punish such cruel lust with the most severe punishments?" The bull went on to provide that all the penalties of both canon and secular law against homicide were to apply to those producing an abortion, whatever the age of the fetus, and to those practicing contraception by drug. The old exception on irregularity of *Sicut ex* was wiped out. No exception was mentioned for therapeutic abortion. Persons guilty of the crime were excommunicated, and absolution from the excommunication was reserved to the Holy See alone.¹¹¹

Effraenatam was not an unqualified success. The reservation of absolution to the Holy See created administrative difficulties. The bull clashed with the practice of the Penitentiary and the theory of the canonists and theologians. Sixtus V had not been dead long when, in 1591, Gregory XIV restricted the bull. Noting suavely that "the hoped-for fruit" had not resulted, the new pope repealed all its penalties except those applying to a

fetus which had been ensouled.¹¹² The bull was not cited in the controversy on therapeutic abortion. The legislative incursion into the field had not changed the theologians' balance.

Almost a century later the papacy acted again in the area. Its intervention this time was the fruit of the efforts of conservative theologians centered at Louvain to check what they deplored as "laxism" in moral theology.¹¹³ After a theological and a cardinalatial commission had examined one hundred propositions taken from a variety of theological treatises and delated to Rome by Louvain, the Holy Office under Innocent XI issued a condemnation on March 2, 1679. Sixty-five propositions were condemned, of which two related to abortion:

34. It is lawful to procure abortion before ensoulment of the fetus lest a girl, detected as pregnant, be killed or defamed.

35. It seems probable that the fetus (as long as it is in the uterus) lacks a rational soul and begins first to have one when it is born; and consequently it must be said that no abortion is homicide.

The 65 propositions were globally designated by the Holy Office as "at least scandalous and in practice dangerous."¹¹⁴ The censure, therefore, at the minimum bore on the prudence of teaching the propositions, not on their abstract truth. What were rejected was Sanchez's opinion that danger of death from relatives was ground for abortion and the opinion of "the prince of laxists," Juan Caramuel y Lobkowitz, on the time of ensoulment.¹¹⁵ The main line of casuistic thought on therapeutic abortion was unmentioned and unaffected. Outer limits of permissible teaching were, however, established in practice by the decree.

Opinion on Ensoulment

A stream of thought distinct from papal authority also began in the seventeenth century, without immediate effect but with ultimate significance for the view of abortion. It came from medical doctors versed in philosophy. The title of the first work of the new approach summarizes its content: *A Book on the Formation of the Fetus in which It Is Shown that the Rational Soul Is Infused on the Third Day*. It was written by a physician at Louvain, Thomas Fienus, and appeared in 1620.¹¹⁶ A year later there was an even more influential treatise, *Medico-Legal Questions*, by a Roman physician, Paolo Zacchia. In his learned treatise on medical aspects of the canon and civil laws Zacchia attacked the prevailing interpretation of Aristotle which envisioned the fetus progressing by stages

from vegetable ensoulment to animal ensoulment to rational ensoulment. This “metamorphosis of souls,” he declared, was “an imaginary thing.”¹¹⁷ Belief that the rational soul was in fact instilled after forty days rested on no evidence that the rational soul was then in operation; nor could the movement of the fetus have any significance in showing the presence of a rational soul. Those who argued that there was a rational soul at some time in the embryo, but at some time after conception, were thus entangled in “absurdities” in trying to show the basis of their conviction. On the contrary, a true Thomistic view of the unity of man required that there be a single human soul from the beginning of the existence of a new fetus.¹¹⁸ The rational soul, Zacchia argued, must be “infused in the first moment of conception.”¹¹⁹

Zacchia’s thesis on ensoulment was well received, and he himself in 1644 received from Innocent X the grand title of “General Proto-Physician of the Whole Roman Ecclesiastical State.” In 1658 Geronimo Florentinio of the Congregation of the Mother of God brought out a work entitled *Baptisms of Doubtful Men*, in which he argued that a fetus should be baptized if it was taken from the mother’s womb before forty days. In the next thirty years the thesis of Florentinio was found unobjectionable by the theological faculties of Paris, Vienna, Prague, and Rheims. Delated to the Roman tribunal of the Index of Prohibited Books, the treatise was declared blameless if Florentinio added that no one was bound under pain of mortal sin to baptize a fetus under forty days.¹²⁰

The theory of Zacchia had no immediate impact on the theologians dealing with abortion. He himself in answering objections to his novel proposition agreed that the “milder” opinion of the canons could be followed as to punishment for abortion of a fetus under forty days; a “greater injury” was done in killing an older embryo.¹²¹ The theologians themselves were slow to respond to the new arguments. By the eighteenth century Constantino Roncaglia of the Congregation of the Mother of God contended in analyzing the sin of abortion that it was “most probable” that the fetus was ensouled at the instant of conception or “at least from the third or seventh day.”¹²² But the leading moralist of the day, St. Alfonso, declared that “some say badly” that the soul is infused at conception.¹²³ He preferred to rely on the Septuagint translation of Exodus, which Zacchia had dismissed as “a commentary” which was not Scripture, and to hold it “certain” that there was not immediate ensoulment.

Another trend with long-run, rather than immediate, implications was the growing cult of the Immaculate Conception of Mary and the increase in theological and papal support for this doctrine. Zacchia used the argument from its liturgical celebration in favor of his contention. The Catholic Church, he said, celebrated the conception of Mary, who was conceived according to the flesh; it did not celebrate the coming into existence of what was “brute, corruptible, and mortal.”¹²⁴ When, in 1701, Clement XI made the Immaculate Conception a feast of universal obligation in the Church, belief in immediate ensoulment of all human beings received indirect support and encouragement.

The three strands of thought—the pastoral-legislative interest in a sure and certain protection of the embryo, the medical-philosophical rejection of a “metamorphosis of souls” in the stages of fetal development, the popular liturgical devotion to the Immaculate Conception—all represented powerful impulses destined to affect the conclusions drawn by the casuists from their abstract and narrow consideration of cases of therapeutic abortion. As of 1750, however, it was the balance struck by the casuists which dominated the teaching on abortion.

Care from Conception, 1750-1965

In the course of the next two centuries the teaching of the Church developed to an almost absolute prohibition of abortion. This development represented a substantial return to the patristic prohibition without the glosses and exceptions written in by casuistry; but it was not a naïve invocation of the past; it was a conscious rejection of some solutions which had once been appealing. Hence, it was development—a testing of principles by human experience in the light of the Gospel and a reformulation of doctrine after this testing. Like other developed Christian teaching on slavery, on the rights of labor, on war, it embodied a sensitivity to certain values affirmed in the Gospel but not made effective in Roman, medieval, or Post-Reformation culture.

In the formation of teaching, the pastoral interest of the papacy played a strong part; and it was the central authority of the Church, far more prestigious in moral matters in the period 1880-1950 than ever before in its history, which dominated the development. The moral theologians and canonists bent to the papal leadership which, while reflecting the view of moral theologians, incorporated a broader sense of situation and likely

trends and dangers. In 1588 Sixtus V, the most energetic of popes, could do nothing to change the views of the dominant moralists; beginning with the papacy of Leo XIII the moralists, in this area of thought, followed the papal lead.

Sensitivity to Life

The pastoral concern to protect the embryo was particularly animated by the spread of abortion in Western Europe. As early as 1795, the Marquis de Sade had attacked restrictions on abortion as the result of religious superstition and had exulted in the delight of destroying an embryo.¹²⁵ His book, the first in Western Europe to praise abortion, carried a revolutionary destructiveness to the ultimate, and his special temper was not universal; but in a similar spirit of freedom from religious bonds, many Frenchmen practiced birth control during the last quarter of the eighteenth century, and the French birth rate declined precipitously.¹²⁶ While contraception by coitus interruptus probably accomplished much of the reduction, it was the opinion of observers that abortion often supplemented ineffective contraception.¹²⁷ By the twentieth century, the number of abortions, though hard to establish because of their criminal and therefore secret character, was believed to be large in such nominally Christian countries as France, Switzerland, and Italy.¹²⁸

Against the current in favor of abortion, the Church reacted. In part, its position became sharper and stronger because of a development of the teaching on ensoulment. The Aristotelian interpretation of gestation, which supposed a transformation from vegetable soul to rational soul occurring in the embryo, had become obsolete. Even in the eighteenth century medical opinion had rejected it.¹²⁹ In the nineteenth century the theologians, who had been slow to surrender a theory with so many famous supporters, inclined now to the idea of Zacchia. Both theological and biological developments affected their confidence in the old forty-day-eighty-day formula. In 1854 Pius IX proclaimed as a dogma of the Catholic Church that Mary was free from sin "in the first instant of her conception."¹³⁰ The new dogma dealt the old formula a glancing if not fatal blow. Meanwhile, educated European opinion could not accept Aristotelian biology in the light of the new discoveries in biology. Karl Ernest von Baer in 1827 had discovered the ovum in the human female; by 1875 the joint action of spermatozoon and ovum in generation had

been determined. A change in organism was seen to occur at the moment of fertilization which distinguished the resultant from the components. It was easier to mark this new organism off from the living elements which had preceded it than it was to mark it off from some later stage of its organic growth in the uterus. If a moment had to be chosen for ensoulment, no convincing argument now appeared to support Aristotle or to put ensoulment at a late stage of fetal life.

The slowly changing attitude can be seen in the standard works. The most popular manual for seminary instruction in the nineteenth century was the *Compendium of Moral Theology* of the French Jesuit Jean Gury. The book was largely a succinct presentation of St. Alfonso de' Liguori, and in mid-nineteenth century Gury said, "The fetus, although not ensouled, is directed to the forming of man; therefore its ejection is anticipated homicide."¹³¹ In 1869, in the constitution *Apostolicæ sedis*, Pius IX dropped the reference to the "ensouled fetus" in the excommunication for abortion, so that the excommunication now seemed to include the abortion of any embryo. An implicit acceptance of immediate ensoulment was found in the action: "otherwise it would be making an old law more onerous, which is contrary to the intent of the constitution."¹³² Thereafter, Thomas Gousset in his work for the practical instruction of confessors treated immediate ensoulment as the opinion to be followed, so that all abortions were homicides.¹³³ Augustine Lehmkuhl, the German Jesuit who was perhaps the ablest of the nineteenth-century moralists, taught that abortion is "true homicide," "as follows from what is today the more common opinion that teaches that every fetus is ensouled with a rational soul."¹³⁴

In the twentieth century vigorous champions of the old theory could still be found. The most influential was Arthur Vermeersch, the Belgian Jesuit who was to be the principal draftsman of *Casti connubii*. No "solid arguments," he maintained, proved the immediate infusion of the soul.¹³⁵ However, a more modern writer and the most persuasive of moral theologians of postwar Europe, Bernard Häring, taught that the teaching of Aristotle had but "slight probability" and that, consequently, "every abortion is murder." In keeping with this approach, Häring condemned as abortion the use of intrauterine devices if their use was to prevent nidation of the fertilized ovum. As long as contraception was not accepted by the Church, the time of ensoulment did not determine whether a sin was

committed. If some form of contraception were to be accepted by the Church, the line between contraception and abortion would be highly important to draw. The tendency, reflected by Häring's work, was to draw the line at conception.¹³⁶

Catholic theologians had defended the right to kill in defense of property of great importance to the owner.¹³⁷ By analogy, would it be right to kill a fetus endangering some substantial economic good? There were two difficulties in applying the analogy. First, a mother stood in a fiduciary relation to her child. To kill the child in defense of the mother's interests was to be faithless to a trust. Second, the child in the womb was peculiarly helpless in a way that distinguished him from all older aggressors against property; he had no way of escape if death was to be inflicted for his aggression. For these reasons, the analogy with the defense of property was not developed to justify the killing of the fetal aggressor against some good less than life.¹³⁸

The changed view of ensoulment could be seen as part of a broader humanistic movement of the nineteenth and twentieth centuries to be more sensitive to the value of life. This sensitivity, indeed, was heightened as more terrible ways of destroying life were perfected. In the twentieth century much of the old casuistry on killing appeared obsolete because of its narrow focus on a few facts of a case and its insensitivity to life. In particular, the Catholic teaching on the just war which had provided a substantial analogy for abortion began to be questioned. By 1965 the Second Vatican Council could call for an "examination of war with an entirely new mind" and could declare the indiscriminate bombing of cities (which had been a usual act in World War II) to be "a crime against God and man."¹³⁹ In the very long run, the slowly shifting approach to what was lawful in the killing of adults would presumably have a reinforcing effect on the Church's desire to protect embryonic life.

Papal Rulings

To speak of this twentieth-century trend is to anticipate. In the period between 1850 and 1965, the pastoral activity of the papacy carried the main burden of protective measures. It acted through the canon law, through the rulings of the Holy Office, and through public teaching. The 1869 extension of excommunication, the final sanction of the Church, has been noted. The new code of Canon Law in 1917 made a further exten-

sion. Because of the special phrasing of the original bull of excommunication, *Effraenatam* of Sixtus V, it had been argued that the excommunication did not apply to the mother herself who sought or consented to an abortion, although it did to the doctor and other principals in abortion.¹⁴⁰ In 1917 the new Code of Canon Law specifically included “mothers” in those excommunicated for procuring an abortion.¹⁴¹

A hardening position on the medical cases was initiated with a series of responses from the Holy Office running from 1884 to 1902. The old casuistry on therapeutic abortion had existed in the teeth of *Effraenatam* which, by its terms, made no exceptions. In the midst of keen debate in Roman theological circles, the Holy Office began to eliminate the exceptions. After consideration of the case for several years, it declared in 1889 that it was not “safe” to teach in Catholic schools that a craniotomy necessary to save the mother’s life was lawful, although without it both mother and child would die.¹⁴² It extended this ruling to any operation “directly killing the fetus.”¹⁴³ In 1895 it dealt not with the “safeness” of teaching but the moral “safeness” of an actual operation. The question asked of the Holy Office concerned a doctor who, to save a mother from “certain and imminent death,” used means which do not “per se and directly tend to the killing of the fetus in the maternal breast but act only so that the fetus will, if possible, be extracted alive, although it will soon die as it is entirely immature.” The Holy Office declared that the operation might not safely be performed; on July 25, 1895, this answer was personally approved by Leo XIII.¹⁴⁴

In 1898 the Holy Office declared that if birth was not possible because of the mother’s “tightness,” it was not licit to provoke an abortion. Where there was an extrauterine pregnancy, a laparotomy was lawful “to extract the ectopic conceptus from the breast of the mother, provided that, to the extent possible, serious and appropriate provision is made for the life of the fetus and mother.”¹⁴⁵ Was it lawful, the theologians of Montreal asked, to extract an ectopic fetus under six months? In 1902 the Holy Office answered, “No, according to the decree of May 4, 1898, by force of which the life of the fetus, to the extent possible, must be seriously and appropriately provided for.” It added that both decrees meant that the operation could not be performed except at a time and by means according to whose “ordinary results” both lives would be provided for.¹⁴⁶ If this decree were taken literally, even the ectopic exception to the abortion

rule was eliminated.¹⁴⁷ Read together, the Holy Office decrees turned back even the most appealing exceptions to the inviolability and independent integrity of the embryo.

The answers of the Holy Office, in the first instance, instructed bishops and theologians, and only through them the priests and people; considerable caution was urged by the theologians on confessors in disturbing the good faith belief of doctors performing therapeutic abortions that they were acting rightly.¹⁴⁸ A split developed between the teaching of the theologians and the medical schools. In 1924 the leading Catholic moralist, Vermeersch, recognized this conflict and wished for “perspicuous statements of authority by which the consciences of Catholics could be firmly directed.”¹⁴⁹ This supposed need to speak forcefully to Catholic doctors formed part of the pressure for a papal statement, which was in fact made in 1930. There were also general reasons for a public statement to a wide audience. Advocates were now appearing for the right of women to dispose of the fetus as part of her body; abortion was seen by some as a liberty of the modern woman.¹⁵⁰ In revolutionary Russia abortion had been legalized; other countries were considering permissive legislation. To dissipate the doubts of Catholic doctors, to answer the champions of abortion, to speak to the legislators, to reach the widest possible audience, it seemed necessary for the pope to speak. The opportunity was presented when, specifically responding to the new Anglican teaching on contraception, Vermeersch and Franz Hürth prepared an encyclical on Christian marriage. This small summa on Christian marriage, a synthesis of many basic theses of Christian teaching on human sexuality, was issued by Pius XI on December 31, 1930. It contained sharp condemnation of abortion in general and of abortion as practiced by three specific kinds of people.

The encyclical spoke of “that most grave crime by which the offspring hidden in the maternal breast is attacked.” Speaking first of those who justified it by medical and therapeutic indications, the pope asked, “What cause can ever avail to excuse in any way the direct killing of the innocent? For it is a question of that. Whether it is inflicted on mother or on offspring, it is against the commandment of God and the voice of nature, ‘You shall not kill. The life of each is sacred.’” The argument that the state could authorize the taking of life did not apply; the state had power only over criminals. The argument that the mother could treat the fetus as

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an unjust aggressor did not apply, “for who will call an innocent little one an unjust aggressor?” As for what had been the usual defense in writers such as Sanchez, the encyclical, without adverting to contrary authority, simply denied that “there is a law of extreme necessity which can lead to the direct killing of the innocent.”¹⁵¹

Then there were those who practiced abortion in marriage to prevent offspring. They were described as “wicked.” Against them Pius XI invoked the ancient words of *Aliquando* and upbraided them for their “lustful cruelty” or “cruel lust.”¹⁵²

Finally, there were the advocates of abortion on social and eugenic grounds. Their arguments were analyzed as saying that some persons could be involuntarily sacrificed for the good of others. The “killing of the innocent” for such reasons was “contrary to the divine commandment promulgated also by the words of the Apostle, ‘Evils are not to be done in order that good comes from them.’” Like St. Thomas on the “salvific abortion” of a fetus to baptize it, Pius XI invoked Rom. 3:8, which was now given the status of a divine command. The independent destiny of the fetus, not to be destroyed for its own good or the good of others, was thus asserted.

The encyclical showed considerable concern with the actions of public authority. German law could be interpreted to make a doctor liable if he did not save the mother by a therapeutic abortion.¹⁵³ Not referring to this by name the pope observed that public authority could not confer a right to dispose of innocent life. Rather, the legislators had a serious obligation to defend the innocent by “laws and sanctions.” They were prophetically reminded that if they permitted embryos to be killed by doctors or others, “God is judge and avenger of the innocent blood which cries from earth to heaven.”¹⁵⁴

In this compact and sweeping statement, the tones of early Christianity were heard: embryonic life was sacred; God and man were grievously offended by its destruction; there was no exception. The strongest and most comprehensive denunciation of abortion made by papal authority, it did not constitute infallible teaching; but, addressed to the bishops of the whole Church and authoritatively proclaiming the moral law, it was of controlling force for Catholics.

The central teaching authority found one occasion to reaffirm its stand. Twenty years later, legalized abortion had swept Japan, while the advo-

cates of legalized abortion were beginning to resume their work in post-war Europe. At the same time the Church was opening its stand on contraception by permitting the systematic avoidance of conception by the use of rhythm. In the first papal address to approve definitively this system, the difference between it and both contraception and abortion was emphasized. In the allocution, addressed to the Italian Catholic Society of Midwives on October 29, 1951, Pius XII taught: "The baby in the maternal breast has the right to life immediately from God.—Hence there is no man, no human authority, no science, no medical, eugenic, social, economic or moral 'indication' which can establish or grant a valid juridical ground for a direct deliberate disposition of an innocent human life, that is a disposition which looks to its destruction either as an end or as a means to another end perhaps in itself not illicit.—The baby, still not born, is a man in the same degree and for the same reason as the mother."¹⁵⁵ A more succinct and complete assertion of the rights of the embryo had not been made.

The Second Vatican Council had reason to consider abortion specifically in relation to family planning. In its pastoral constitution, *Joy and Hope*, on the Church in the modern world, the Council had affirmed the duty of responsible procreation, of conscientious decision-making by spouses as to how many children they should have. The Council had also affirmed that conjugal love was "perfected" in conjugal intercourse. It then had recognized that there might well be a conflict between the expression of love and responsible parenthood.¹⁵⁶ The Council, carefully refraining from a decision on contraception, did not attempt to solve the conflict. It did observe, however, "There are those who presume to offer to these problems indecent solutions; indeed they do not shrink from killing." In response to such solutions, the Council declared, "Life from its conception is to be guarded with the greatest care. Abortion and infanticide are horrible crimes."¹⁵⁷

In this declaration the Council made several doctrinal advances. For the first time contraception was treated differently from abortion. A line was drawn, with contraception on one side, abortion and infanticide on the other. Certain commands on contraception were specified as being for "children of the Church." The teaching on abortion, in contrast, was in a document otherwise addressed to "all men of good will." Abortion was condemned; no final judgment was made on all forms of contraception.

Beyond these distinctions, an amendment, specifically made and adopted, added the words “from its conception.”¹⁵⁸ In this way the Council sharply marked off the status of the conceptus from the status of spermatozoa and ova. Finally, the declaration was the first statement ever made by a general council of the Church on abortion; its judgment, promulgated by Paul VI on December 5, 1965, represented a commitment by the Catholic bishops of the world to care from conception.

Exceptions

In three successive stages then—decision by Roman congregations, teaching by popes, affirmation by pope and general council—authority had intensified the opposition of the Church to abortion. Exceptions, however, still survived, and it is essential to understand these exceptions to understand the balance now struck. Their survival may perhaps be best followed in the changing use of “direct” and “indirect.” Lehmkuhl used “direct” in the sense in which Thomas had used it in justifying an act of killing in self-defense. As late as 1886 he taught that to procure an abortion to save the mother’s life was “scarcely a direct abortion in a theological sense, any more than yielding a plank in a shipwreck to a friend is direct killing of oneself.”¹⁵⁹ In this sense “direct” was equated with what was intended by the person acting. Yet, like Liguori, Lehmkuhl found some means objectionable whatever the person’s intention. He restricted permissible direct abortion to the removal of the immature fetus from the embryo, but condemned craniotomy entirely. As in Liguori, the basis for the distinction between means was not clear, because to consider means in some way meant to judge the act of killing on the basis of the *finis operis*, rather than by the intention of the person performing the act. Lehmkuhl attempted to distinguish by saying that where the fetus was removed there was an act with a double effect—on the one hand, the good effect of removing a danger to the mother with the additional benefit of opportunity to baptize the fetus; on the other hand, the bad effect of “acceleration of the death of the fetus.” The good, he contended, outweighed the bad, and the bad effect was not a means of achieving a good end. In contrast, in craniotomy the fetus was killed at once, and the good effect, the removal of danger to the mother, followed from the act of killing. It is apparent that this analysis rested on a distinction without foundation in the example from St. Thomas where the act of killing was

the means of self-defense in the same way that the craniotomy simultaneously saved the mother and removed the fetus.

Lehmkuhl's opinion permitting therapeutic abortion as indirect was rejected by the Holy Office in the decree approved July 25, 1895. As late as 1930, however, the meaning of "direct" which he had used was invoked by Ernesto Pestalozzi, director of the Obstetrical-Gynecological Clinic of the University of Rome. Writing in the Vatican newspaper, *Osservatore Romano*, three weeks after *Casti connubii*, he contended that Pius XI had not condemned the usual practice of Italian physicians in procuring an abortion "to save the mother from very serious danger." Such a procedure, where the doctors intention was to save the mother, was not a "direct killing of the innocent" condemned by the encyclical. Pestalozzi's effort was treated by the theologians as a gross misinterpretation of *Casti connubii*.¹⁶⁰ "Direct" was now applied to any means used to abort a normal fetus, with whatever intention it was done.

There were two cases, however, which received special consideration. One was the case of an ectopic pregnancy, the other of a cancerous uterus. Despite the Holy Office decree of 1902, Lehmkuhl refused to accept defeat on the moral propriety of terminating an ectopic pregnancy. He now argued that it was lawful to remove the tumor which "sometimes appears in various organs of the mother" as a result of the ovum being outside the uterus. He did not make clear whether the tumor was "the swelling of the tube quite independent of the pregnancy or whether the mass growing in the tube was a result of the pregnancy itself."¹⁶¹ He argued that the removal of the tumor was an indirect, permissible abortion. Like his distinction between craniotomy and removal of a normal fetus, Lehmkuhl's distinction appeared to attach the term "indirect" to a means which brought about fetal death gradually; that he could still use this distinction after the Holy Office decrees and win supporters for it from the moral theologians reflected a willingness to treat the ectopic pregnancy differently. In the 1920s and into the 1930s, the moralists continued to be divided.¹⁶² No one supposed, however, that *Casti connubii* had decided the case. The distinction which won more support than Lehmkuhl's was argued by T. Lincoln Bouscaren as follows: In the case of an ectopic pregnancy in the Fallopian tube, the tube became pathological. An operation to remove the tube was lawful like other surgery. The fetus was not the direct object of the operation; its indirect killing was

justified whenever there was “a notably greater probability of saving the mother’s life.”¹⁶³ In this usage “direct” was applied to the intention of the physician to remove the pathological condition. As to the physical act of removal, it had the good effect of removing the pathological tube, the bad effect of killing the fetus. Neither effect considered in itself was more “direct” than the other; but the intention of the physician was said to be directed only to the good end.

An analogous situation had been proposed by Lehmkuhl and unchallenged by the Holy Office in the case of the cancerous uterus. The removal of the uterus was said to be a moral act to remove a pathological condition; the death of the fetus it contained was indirectly accomplished.¹⁶⁴ This analysis was seriously questioned after *Casti connubii* by Agostino Gemelli, the Franciscan biologist who was rector of the Catholic University of the Sacred Heart in Milan. Vermeersch defended Lehmkuhl’s position, arguing that it was a standard case of double effect: removal of the fetus and removal of the cancer with the good effect outweighing the bad.¹⁶⁵ He was pressed by Gemelli to deny that the bad means, the death of the fetus, was not the means used to the good end of the mother’s health, and so forbidden by the principle that evil might not be done to achieve good. Surely, Gemelli contended, who wills the means wills the consequences even though he might prefer one of the consequences might not occur.¹⁶⁶ Vermeersch replied with a new criterion of means to an end: Could a similar act be done without killing a fetus? The cancerous uterus, he argued, could be morally removed if it were empty; the operation did not become immoral by the presence of a fetus in the uterus, because the operation, not the death of the fetus, was the means to the end.¹⁶⁷ Gemelli attacked this reasoning as too abstract. Concretely, when a hysterectomy was performed on a pregnant uterus, the fetus was killed; concretely, the death of the fetus was a means used to achieve health for the mother. It was, therefore, a direct killing, condemned by the encyclical.¹⁶⁸

The vigorous debate between Gemelli and Vermeersch illustrated the ambiguity and question-begging involved in arguing about what was “direct”; and not surprisingly, neither moralist convinced the other. If an act whose *finis operis* was to kill a fetus was always wrong, Gemelli was right, and the killing was to be condemned. On the contrary, if such an act was sometimes lawful for the purpose of saving the mother’s life,

Vermeersch was right; but to show that he was right it was necessary to admit that there were cases where the balance of values was in favor of abortion. Vermeersch was unwilling to make this admission in so many words. In fact, even after the severe condemnation of *Casti connubii*, Vermeersch and other leading Catholic moral theologians admitted the lawfulness of killing the fetus in the two special situations of ectopic pregnancy and a cancerous uterus. Their position was puzzling and irritating to their critics because they used terminology inadequate to convey what they were doing.

What the theologians were doing was drawing a line. Line-drawing is the ordinary business of moralists and lawmakers. It says that up to a certain point such-and-such a value will be preserved, but after that point another value will have play. Line-drawing brings charges of inconsistency of principle only from a critic who believes that one value should not have any limits. The proper criticism of line-drawing, however, is not that it is inconsistent but that the line is drawn at the wrong place; usually, indeed, charges of “logical inconsistency” are simply disguises for real objections to where the line has been fixed.¹⁶⁹ In the case of abortion Catholic moralists wanted to draw a line so tightly fixed in favor of the fetus that abortion could be rarely justified—justified indeed only when there was an unusual, extra circumstance added such as a cancerous uterus or an ectopic pregnancy. The permission of these two exceptions was consistent with the desire to establish a general rule of inviolability for the fetus; they were inconsistent only with an absolute valuation of fetal life.

As exceptions were admitted, why not more exceptions? The reason was fear that the exceptions would eat up the protection of the embryo. Vermeersch discussing the ectopic pregnancy observed sadly, “It is not without soulful solicitude that we weigh cases where, whether you embrace the benign or severe solution, what must be said is often at least indirectly dangerous to human lives.”¹⁷⁰ The consciousness that all but the most special exceptions would be pushed further weighed heavily. With one excusing cause, men would be led to seek others; insist on preserving both mother and child and maximum efforts would be made to save both.¹⁷¹ Trying to reach a point where maximum protection was afforded the fetus, the decision was made to except only the two unusual cases.¹⁷²

Conclusion

The most fundamental question involved in the long history of thought

on abortion is: How do you determine the humanity of a being? To phrase the question that way is to put in comprehensive humanistic terms what the theologians either dealt with as an explicitly theological question under the heading of "ensoulment" or dealt with implicitly in their treatment of abortion. The Christian position as it originated did not depend on a narrow theological or philosophical concept. It had no relation to theories of infant baptism.¹⁷³ It appealed to no special theory of instantaneous ensoulment. It took the world's view on ensoulment as that view changed from Aristotle to Zacchia. There was, indeed, theological influence affecting the theory of ensoulment finally adopted, and, of course, ensoulment itself was a theological concept, so that the position was always explained in theological terms. But the theological notion of ensoulment could easily be translated into humanistic language by substituting "human" for "rational soul"; the problem of knowing when a man is a man is common to theology and humanism.

If one steps outside the specific categories used by the theologians, the answer they gave can be analyzed as a refusal to discriminate among human beings on the basis of their varying potentialities. Once conceived, the being was recognized as man because he had man's potential. The criterion for humanity, thus, was simple and all-embracing: if you are conceived by human parents, you are human.

The strength of this position may be tested by a review of some of the other distinctions offered in the contemporary controversy over legalized abortion. Perhaps the most popular distinction is in terms of viability. Before an age of so many months, the fetus is not viable, that is, it cannot be removed from the mother's womb and live apart from her. To that extent, the life of the fetus is absolutely dependent on the life of the mother. This dependence is made the basis of denying recognition to its humanity.

There are difficulties with this distinction. One is that the perfection of artificial incubation may make the fetus viable at any time: it may be removed and artificially sustained. Experiments with animals already show that such a procedure is possible.¹⁷⁴ This hypothetical extreme case relates to an actual difficulty: there is considerable elasticity to the idea of viability. Mere length of life is not an exact measure. The viability of the fetus depends on the extent of its anatomical and functional develop-

ment.¹⁷⁵ The weight and length of the fetus are better guides to the state of its development than age, but weight and length vary.¹⁷⁶ Moreover, different racial groups have different ages at which their fetuses are viable. Some evidence, for example, suggests that Negro fetuses mature more quickly than white fetuses.¹⁷⁷ If viability is the norm, the standard would vary with race and with many individual circumstances.

The most important objection to this approach is that dependence is not ended by viability. The fetus is still absolutely dependent on someone's care in order to continue existence; indeed a child of one or three or even five years of age is absolutely dependent on another's care for existence; uncared for, the older fetus or the younger child will die as surely as the early fetus detached from the mother. The unsubstantial lessening in dependence at viability does not seem to signify any special acquisition of humanity.

A second distinction has been attempted in terms of experience. A being who has had experience, has lived and suffered, who possesses memories, is more human than one who has not. Humanity depends on formation by experience. The fetus is thus "unformed" in the most basic human sense.¹⁷⁸

This distinction is not serviceable for the embryo which is already experiencing and reacting. The embryo is responsive to touch after eight weeks¹⁷⁹ and at least at that point is experiencing. At an earlier stage the zygote is certainly alive and responding to its environment.¹⁸⁰ The distinction may also be challenged by the rare case where aphasia has erased adult memory: has it erased humanity? More fundamentally, this distinction leaves even the older fetus or the younger child to be treated as an unformed inhuman thing. Finally, it is not clear why experience as such confers humanity. It could be argued that certain central experiences such as loving or learning are necessary to make a man human. But then human beings who have failed to love or learn might be excluded from the class called man.

A third distinction is made by appeal to the sentiments of adults. If a fetus dies, the grief of the parents is not the grief they would have for a living child. The fetus is an unnamed "it" till birth, and is not perceived as personality until at least the fourth month of existence when movements in the womb manifest a vigorous presence demanding joyful recognition by the parents.

Yet feeling is notoriously an unsure guide to the humanity of others. Many groups of humans have had difficulty in feeling that persons of another tongue, color, religion, sex, are as human as they. Apart from reactions to alien groups, we mourn the loss of a ten-year-old boy more than the loss of his one-day-old brother or his 90-year-old grandfather. The difference felt and the grief expressed vary with the potentialities extinguished, or the experience wiped out; they do not seem to point to any substantial difference in the humanity of baby, boy, or grandfather.

Distinctions are also made in terms of sensation by the parents. The embryo is felt within the womb only after about the fourth month.¹⁸¹ The embryo is seen only at birth. What can be neither seen nor felt is different from what is tangible. If the fetus cannot be seen or touched at all, it cannot be perceived as man.

Yet experience shows that sight is even more untrustworthy than feeling in determining humanity. By sight, color became an appropriate index for saying who was a man, and the evil of racial discrimination was given foundation. Nor can touch provide the test; a being confined by sickness, "out of touch" with others, does not thereby seem to lose his humanity. To the extent that touch still has appeal as a criterion, it appears to be a survival of the old English idea of "quickenings"—a possible mistranslation of the Latin *animatus* used in the canon law.¹⁸² To that extent touch as a criterion seems to be dependent on the Aristotelian notion of ensoulment, and to fall when this notion is discarded.

Finally, a distinction is sought in social visibility. The fetus is not socially perceived as human. It cannot communicate with others. Thus, both subjectively and objectively, it is not a member of society. As moral rules are rules for the behavior of members of society to each other, they cannot be made for behavior toward what is not yet a member. Excluded from the society of men, the fetus is excluded from the humanity of men.¹⁸³

By force of the argument from the consequences, this distinction is to be rejected. It is more subtle than that founded on an appeal to physical sensation, but it is equally dangerous in its implications. If humanity depends on social recognition, individuals or whole groups may be dehumanized by being denied any status in their society. Such a fate is fictionally portrayed in *1984* and has actually been the lot of many men in many societies. In the Roman empire, for example, condemnation to

slavery meant the practical denial of most human rights; in the Chinese Communist world, landlords have been classified as enemies of the people and so treated as non-persons by the state. Humanity does not depend on social recognition, though often the failure of society to recognize the prisoner, the alien, the heterodox as human has led to the destruction of human beings. Anyone conceived by a man and a woman is human. Recognition of this condition by society follows a real event in the objective order, however imperfect and halting the recognition. Any attempt to limit humanity to exclude some group runs the risk of furnishing authority and precedent for excluding other groups in the name of the consciousness or perception of the controlling group in the society.

A philosopher may reject the appeal to the humanity of the fetus because he views "humanity" as a secular view of the soul and because he doubts the existence of anything real and objective which can be identified as humanity.¹⁸⁴ One answer to such a philosopher is to ask how he reasons about moral questions without supposing that there is a sense in which he and the others of whom he speaks are human. Whatever group is taken as the society which determines who may be killed is thereby taken as human. A second answer is to ask if he does not believe that there is a right and wrong way of deciding moral questions. If there is such a difference, experience may be appealed to: to decide who is human on the basis of the sentiment of a given society has led to consequences which rational men would characterize as monstrous.¹⁸⁵

The rejection of the attempted distinctions based on viability and visibility, experience and feeling, may be buttressed by the following considerations: Moral judgments often rest on distinctions, but if the distinctions are not to appear arbitrary fiat, they should relate to some real difference in probabilities. There is a kind of continuity in all life, but the earlier stages of the elements of human life possess tiny probabilities of development. Consider for example, the spermatozoa in any normal ejaculate: There are about 200,000,000 in any single ejaculate, of which one has a chance of developing into a zygote.¹⁸⁶ Consider the oocytes which may become ova: there are 100,000 to 1,000,000 oocytes in a female infant, of which a maximum of 390 are ovulated.¹⁸⁷ But once spermatozoon and ovum meet and the conceptus is formed, such studies as have been made show that roughly in only 20 percent of the cases will spontaneous abortion occur.¹⁸⁸ In other words, the chances are about 4 out of 5 that this

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new being will develop. At this stage in the life of the being there is a sharp shift in probabilities, an immense jump in potentialities. To make a distinction between the rights of spermatozoa and the rights of the fertilized ovum is to respond to an enormous shift in possibilities. For about twenty days after conception the egg may split to form twins or combine with another egg to form a chimera, but the probability of either event happening is very small.

It may be asked, What does a change in biological probabilities have to do with establishing humanity? The argument from probabilities is not aimed at establishing humanity but at establishing an objective discontinuity which may be taken into account in moral discourse. As life itself is a matter of probabilities, as most moral reasoning is an estimate of probabilities, so it seems in accord with the structure of reality and the nature of moral thought to found a moral judgment on the change in probabilities at conception. The appeal to probabilities is the most commonsensical of arguments, to a greater or smaller degree all of us base our actions on probabilities, and in morals, as in law, prudence and negligence are often measured by the account one has taken of the probabilities. If the chance is 200,000,000 to 1 that the movement in the bushes into which you shoot is a man's, I doubt if many persons would hold you careless in shooting; but if the chances are 4 out of 5 that the movement is a human being's, few would acquit you of blame. Would the argument be different if only one out of ten children conceived came to term? Of course this argument would be different. This argument is an appeal to probabilities that actually exist, not to any and all states of affairs which may be imagined.

The probabilities as they do exist do not show the humanity of the embryo in the sense of a demonstration in logic any more than the probabilities of the movement in the bush being a man demonstrate beyond all doubt that the being is a man. The appeal is a "buttressing" consideration, showing the plausibility of the standard adopted. The argument focuses on the decisional factor in any moral judgment and assumes that part of the business of a moralist is drawing lines. One evidence of the nonarbitrary character of the line drawn is the difference of probabilities on either side of it. If a spermatozoon is destroyed, one destroys a being which had a chance of far less than 1 in 200 million of developing into a reasoning being, possessed of the genetic code, a heart and other organs,

and capable of pain. If a fetus is destroyed, one destroys a being already possessed of the genetic code, organs, and sensitivity to pain, and one which had an 80 percent chance of developing further into a baby outside the womb who, in time, would reason.

The positive argument for conception as the decisive moment of humanization is that at conception the new being receives the genetic code.¹⁸⁹ It is this genetic information which determines his characteristics, which is the biological carrier of the possibility of human wisdom, which makes him a self-evolving being. A being with a human genetic code is man.

This review of current controversy over the humanity of the fetus emphasizes what a fundamental question the theologians resolved in asserting the inviolability of the fetus. To regard the fetus as possessed of equal rights with other humans was not, however, to decide every case where abortion might be employed. It did decide the case where the argument was that the fetus should be aborted for its own good. To say a being was human was to say it had a destiny to decide for itself which could not be taken from it by another man's decision. But human beings with equal rights often come in conflict with each other, and some decision must be made as whose claims are to prevail. Cases of conflict involving the fetus are different only in two respects: the total inability of the fetus to speak for itself and the fact that the right of the fetus regularly at stake is the right to life itself.

The approach taken by the theologians to these conflicts was articulated in terms of "direct" and "indirect." Again, to look at what they were doing from outside their categories, they may be said to have been drawing lines or "balancing values." "Direct" and "indirect" are spatial metaphors; "line-drawing" is another. "To weigh" or "to balance" values is a metaphor of a more complicated mathematical sort hinting at the process which goes on in moral judgments. All the metaphors suggest that, in the moral judgments made, comparisons were necessary, that no value completely controlled. The principle of double effect was no doctrine fallen from heaven, but a method of analysis appropriate where two relative values were being compared. In Catholic moral theology, as it developed, life even of the innocent was not taken as an absolute. Judgments on acts affecting life issued from a process of weighing. In the weighing, the fetus was always given a value greater than zero, always a

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value separate and independent from its parents. This valuation was crucial and fundamental in all Christian thought on the subject and marked it off from any approach which considered that only the parents' interests needed to be considered.

Even with the fetus weighed as human, one interest could be weighed as equal or superior: that of the mother in her own life. The casuists between 1450 and 1895 were willing to weigh this interest as superior. Since 1895, the interest was given decisive weight only in the two special cases of the cancerous uterus and the ectopic pregnancy. In both of these cases the fetus itself had little chance of survival even if the abortion were not performed. As the balance was once struck in favor of the mother whenever her life was endangered, it could be so struck again. The balance reached between 1895 and 1930 attempted prudentially and pastorally to forestall a multitude of exceptions for interests less than life.

The perception of the humanity of the fetus and the weighing of fetal rights against other human rights constituted the work of the moral analysts. But what spirit animated their abstract judgments? For the Christian community it was the injunction of Scripture to love your neighbor as yourself. The fetus as human was a neighbor; his life had parity with one's own. The commandment gave life to what otherwise would have been only rational calculation.

The commandment could be put in humanistic as well as theological terms: Do not injure your fellow man without reason. In these terms, once the humanity of the fetus is perceived, abortion is never right except in self-defense. When life must be taken to save life, reason alone cannot say that a mother must prefer a child's life to her own. With this exception, now of great rarity, abortion violates the rational humanist tenet of the equality of human lives.

For Christians the commandment to love had received a special imprint in that the exemplar proposed of love was the love of the Lord for his disciples. In the light given by this example, self-sacrifice carried to the point of death seemed in the extreme situations not without meaning. In the less extreme cases, preference for one's own interests to the life of another seemed to express cruelty or selfishness irreconcilable with the demands of love.

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NOTES

1. SORANOS, *Gynecology*, ed. J. Ilberg, in 4 *Corpus Medicorum Graecorum* 1.19.60 (London and Berlin, 1927). I follow the translation of technical terms made by L. Edelstein and O. Temkin in their English translation of the *Gynecology* (Baltimore, 1956).
2. PLATO, *The Republic* 5.461c; ARISTOTLE, *Politics* 7.16, 1335b.
3. *Hexameron* 5.18.58, *Corpus Scriptorum Ecclesiasticorum Latinorum* (hereafter CSEL) 32.11.184.
4. LUDWIG EDELSTEIN, *The Hippocratic Oath: Text, Translation, Interpretation* 3 (Baltimore, 1943). The commentators have generally taken the first part of the oath as a pledge not to give a poison or, as in Edelstein, not to participate in euthanasia (*ibid.*, p. 10.) It seems to me that one reading of the oath is to see the "deadly drug" as one type of abortifacient which is rejected along with the pessary. This reading would accord with the paraphrase furnished by Soranos, who, at 1.19.60, says it forbids the furnishing of "an abortifacient" (*phthorion*).
5. SORANOS, at 1.19.60.
6. HIPPOCRATES, *The Nature of the Child*, in *Oeuvres*, ed. E. Littré, 7:409 (Paris, 1834-1861). Although this work may not belong to the Hippocratic corpus, it was accepted by Soranos as written by Hippocrates.
7. *The Republic* 5.461c. Sometimes Plato is cited as favoring abortion; but the reference in *The Laws*, 5,740d, is entirely a vague and general one to methods of restraining excessive fertility in an ideal city, and colonization is suggested as the last resort for population excess.
8. *Politics* 7.16, 1335b. As Aristotle himself leaves it a question, one can only suggest what the elements of the solution would have been for him. When an abortion occurs, distinct parts are found in an embryo if it is male and forty days old, or after ninety days if it is female (*History of Animals* 7.3.583b). This belief as to the time of formation of the fetus would suggest that there is no sensation before the fortieth day. Moreover, referring to growth in the early stages of the gestation of an animal, Aristotle speaks of its "nutritive soul," a soul which would be like that of a plant (*The Generation of Animals* 2.5.714a); and the original state of animals is not sleep, but something resembling sleep, a state which plants are in (5.1). On the other hand, this nutritive soul has the capacity for using heat and cold as its "instruments" (*ibid.*). Where male and female are sentient, what the male contributes to generation is a "sentient soul" (2.5.741b). The animal "first and foremost lives because it can feel" (*The Soul* 2.2.431b). Can it be said that what is generated by the copulation of two animals is a plant? All that can be said with certainty is that Aristotle distinguished the first seven days from the later period of life, and considered that if an "effusion" of seed occurred then, it was not the same as abortion of an embryo (*History of Animals* 7.3.583a-b).
9. *The Special Laws* 3.20.110.
10. *Digest*, ed. Theodore Mommsen, 1 *Corpus juris civilis* (Berlin, 1893) 47.11.4. According to Plutarch, Romulus in his original laws for Rome permitted a husband to divorce his wife for "pharmakeia" toward the children. Plutarch, *Romulus* 22. Probably the use of contraceptive or abortifacient drugs to prevent children is meant.
11. *Digest* 48.19.38.5; cf. *Digest* 48.8.8.
12. *Id.* at 24.4.1.1; 35.2.9.1.
13. The "bad example" rationale for the law is given by the jurist Paul, *Digest* 48.19.38.5, without explanation. As it also applies to the giving of aphrodisiac potions, I take it that the bad example relates to the character of the potion, not to the effect on the birth rate.
14. On the acceptance of abandonment of children by their parents, see SUETONIUS, *Gaius Caligula* 5; on the acceptance of infanticide, see SENECA, *De ira* 1.15; cf. his praise of his own mother for not having had an abortion, unlike so many, *Ad Helviam* 16.1. For references where abortion is taken for granted by contemporary pagans, see PLAUTUS, *Truculentus* 1.2.99; OVID, *De amoribus* 1.2.13; JUVENAL, *Satira* 2.6; AULUS GELLIUS, *Noctes atticae* 12.1. For Christian criticisms of the prevalence of abortion see the texts cited *infra*, 20-36. On the frequency of abortion see also J. H. Waszink, "Abtreibung," in *Reallexicon für Antike und Christentum* 57, ed. Theodore Klauser (Stuttgart, 1950).
15. *Historiae* 5.5.
16. JOHN T. NOONAN, JR. *Contraception: A History of Its Treatment by the Catholic Theologians and Canonists* 18-29 (Cambridge, Mass, 1965).
17. See CLYDE PHARR, "The Interdiction of Magic in Roman Law," 63 *Transactions and Proceedings of the American Philological Association* 272-73 (1932). The word is regularly mistranslated as "sorcery" or "witchcraft" in English Bibles.
18. PLUTARCH, *Romulus* 22, in *Parallel Lives*, trans. B. Perrin (New York, 1914-1926).
19. "Dogs" may mean simply "heathen," but it was also applied to the sodomitic priests who served Astarte. See R. H. CHARLES, 2 *A Critical Commentary and Exegesis of Revelations* 178 (1920).

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20. The later date is preferred by THEODORE CAMELOT, "Didache," 3 *Lexikon für Theologie und Kirche* 369 (1959). An early date, connecting the work with an apostolic mission at Antioch, is preferred by the author of a recent detailed study, JEAN-PAUL AUDET, *La Didachè: Instructions des Apôtres* 197 (Paris, 1958).
21. MONTAGUE RHODES JAMES, *The Apocryphal New Testament* 505 (Oxford, rev. ed. 1953).
22. *Id.* at 510 (James's translation from the Ethiopic text). In the same style the much later *Apocalypse of Paul* condemns women who "defiled the creation of God when they brought forth children from the womb," i.e., by abortion (*id.* at 545).
23. *Pedagogus* 2.10.96.1, *Die griechen christlichen Schriftsteller der ersten drei Jahrhundert* (hereafter *GCS*).
24. *Embassy for the Christians, Patrologia graeca* 6.919 (hereafter *PG*).
25. *Octavius, CSEL* 2.43
26. On the meaning of *parricidium* see T. MOMMSEN, *Römisches Strafrecht* 613 (1899).
27. *Apologeticum ad nationes* 1.15. The relation of Tertullian to Minucius is discussed in MARTI SORDI, "L'apologia del martire romano Apollonio come fonte dell' Apologeticum di Tertulliano e i rapporti fra Tertulliano e Minucio," 18 *Rivista di storia della Chiesa in Italia* 169-188 (1964). Another example of apologetical criticism of pagan inhumanity toward children is provided by LACTANTIUS, *Divinarum institutionum* 6. His strong terms seem principally aimed at infanticide and the abandonment of children to beasts, but may include abortion and reflect the teaching of the *Didache* when he says that "with wicked hands they corrupt the works of God." The central thought is, "It is always wrong to kill a man; this animal God willed to be sacred," *Patrologia latina* 6.707-708 (hereafter *PL*).
28. *De anima*, ed. J. H. Waszink, 25.5-6 (1947). I have adopted Waszink's learned and helpful suggestions on translation.
29. FRANZ DÖLGER, *Antike und Christentum*, vol. 4, at 46. See the extended refutation of Dölger by CONSTANCIO PALOMO GONZALEZ, *El aborto en San Agustino* at 221-228 (Salamanca, 1959).
30. HIPPOLYTUS, *Elenchos* 9.12.25, *GCS* 26.250.
31. CYPRIAN, *Epistle* 52, *CSEL* 3²:619.
32. Council of Ancyra, canon 21, J.D. MANSI, *Sacrorum conciliorum nova et amplissima collectio* (hereafter MANSI) 2.5.19.
33. Council of Elvira, canon 53, MANSI 2.16.
34. *Didascalia et constitutiones apostolorum* 7.3.2, ed. Francis X. Funk (Paderborn, 1905).
35. *Epistles* 121.4, *CSEL* 56.16.
36. *On Exodus* 21.80, *CSEL* 28²:147. The old Latin text spoke of "aborting an immature one," A. E. BROOKE and NORMAN McLEAN, *The Old Testament in Greek* (1909).
37. AUGUSTINE, *De origine animae* 4.4 (*PL* 44.527); JEROME, *On Ecclesiastes* 2.5.
38. JEROME, *Epistle* 22, *To Eustochium* 13, *CSEL* 54.160-61.
39. AUGUSTINE, *De nuptiis et concupiscentia* 1.15.17, *CSEL* 42.229-30.
40. In his *El aborto en San Agustino*, Constantcio Palomo Gonzalez states that Augustine considered abortion to be homicide and entitles one section of his book "Abortion, A Grave Sin of Homicide According to St. Augustine." However, he cites no text where Augustine so teaches. True, Augustine holds every killing of a man to be homicide, as Gonzalez argues at 217. True, Augustine speaks of the infusion of the soul in the uterus by God. True, for Augustine the distinction between formed and unformed, which he accepted from the Septuagint, was not the same as a distinction between souled and soulless (Gonzalez at 141-142). Speaking of embryos "dead" in the womb, which had to be extracted to prevent the death of the mother, Augustine said he did not dare deny that they had lived (*Enchiridion* c. 86, *PL* 40.272). In *The City of God*, Augustine declared he found nothing relevant to the resurrection of the dead which did not relate to "those of all kinds who have died in their mothers' wombs" (*De civitate Dei* 22.13). This statement, Gonzalez well notes, supposes the belief that the fetus was ensouled at all stages. But while it may be argued from this belief that Augustine should have called abortion homicide, he did not do so, and his reservation can only reflect his uncertainty about the time of ensoulment.
- Stronger language is found in Augustine's old teacher, St. Ambrose, who had denounced the use of a "parricidal potion" of married mothers "to take away life before it is transmitted," *Hexameron* 5.18.58, *CSEL* 32¹:184. Ambrose, while speaking thus of parricide, had emphasized in particular the cruelty of mothers in destroying their children and invoked the "piety" of birds to their young to rebuke them.
41. *Expositio evangelii secundum Lucam* 1.43-45, *CSEL* 32⁴:38-39.
42. *Contra Jovinianum* 1.49, in *Seneca: Fragmenta* n. 84, ed. F. G. Haase (Leipzig, 1897). In its original context in Seneca, the injunction not to destroy the offspring could be taken as a warning against abortion of any kind.
43. *Homily 24 on the Epistle to the Romans, PG* 60.626.27.
44. *Letters* 188, *PG* 32.672.

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45. *Id.* at 674.
46. *Id.* at 678.
47. On the authority of “The Canonical Letter,” see J. Gribomont, Introduction to *PG* 32 (rev. 1960).
48. See ROGER JOHN HUSER, *The Crime of Abortion in Canon Law* 33-39 (Washington, 1942).
49. *Id.* at 21.
50. E.g., in the eighth century, “Simulated Virgins and Their Morals,” in *Womanly Questions, Die irische Kanonsammlung*, ed. F. W. H. Wasserscheben (Leipzig, 1885).
51. See NOONAN, *Contraception supra* n. 16, at 164. Some penitentials have lesser penalties for the destruction of what is less than an embryo—apparently a reflection of the old distinction between the formed and the unformed.
52. BURCHARD OF WORMS, “Interrogatory,” *Decretum* 19.4, PL 140.972.
53. P. TOSCHI, “Annunziatione,” 1 *Enciclopedia Catholica* 1384. It has been argued that March 25 was fixed first as both the date of conception and the death of Christ. The coincidence of birth and birth date on this day was asserted by AUGUSTINE, *De trinitate* 4.5, PL 42.894. However, the better opinion appears to be that Christmas was set on December 25 because that was the winter solstice. See C. SMITH, “Christmas and Its Cycle,” 3 *New Catholic Encyclopedia* 656. Accordingly, March 25 would have been set in view of the previously established date for the nativity.
54. FRANCIS DVORNIK, “The Byzantine Church and the Immaculate Conception,” in *The Dogma of the Immaculate Conception* 90, ed. E. O. O’Connor (1958).
55. CORNELIUS A. BOWMAN, “The Immaculate Conception in the Liturgy,” *id.* at 115.
56. *Id.* at 117.
57. GRATIAN, *Decretum* 2.32.2.7, in *Corpus juris canonici*, ed. E. Friedberg (Leipzig 1879-1881).
58. *Id.* at 2.32.2.8-10.
59. GREGORY IX, *Decretales* 5.12.20, in *Corpus juris canonici*.
60. *Glossa ordinaria* at 5.12.20.
61. *Decretales* 5.12.5.
62. The explanation of the compiler of the decretals, St. Raymond, in *Summa confessoriorum* 2.1.4.
63. CHARLES SINGER and E. ASHWORTH UNDERWOOD, *A Short History of Medicine* 76 (Oxford, 2nd ed. 1962).
64. AVICENNA, “De regimine abortus,” book 3, Fen 21, tract 2, c. 12 of *Canon Medicine*, trans. Gerard of Cremona (Venice, 1608). The index of this edition lists drugs which “produce an abortion.” The operation producing evacuation of the humors is *phlebotomia*, defined 1.4.20.
65. *Id.* at c. 8, “De abortu.”
66. *Id.* at c. 8.
67. ALBERT, *De vegetabilibus et plantis*, in 10 *Opera omnia*, ed. A. Borgnet (Paris 1890-1899), 6.1.16, “Colloquintida”; 6.1.26, “Myrrha”; 6.24, “Coriandrum”; 6.2.17 “Scamonea.” *De animalibus*, 11 *Opera omnia* 10.2.2.
68. HOSTIENSIS, *Summa aurea* (Lyons, 1542) 5, “Homicidium” 1.
69. JOANNES ANDREAE, *Novella commentaria in libros decretalium* (Venice, 1581) 5.12; MONALDUS, *Summa perutilis* (Lyons, 1516) f.135 r.; ASTESANUS, *Summa de casibus conscientiae* (Ratisbon, 1780) 8.9. WILLIAM OF PAGULA, *Summa summarum* (Huntington Library, MS 1638), at “Homicidium voluntarium”; JOHN NIDER, *De lepra morali* (Paris, 1490) 2.7.2.
70. *The Canterbury Tales* (ed. F. N. Robinson, 1957), “The Parson’s Tale,” lines 570-80.
71. PETER LOMBARD, *Libri IV Sententiarum* (Quarrachi, 1916) 4.31.
72. *Id.* at 4.31; 2.18.
73. *Id.* at 4.31.
74. In *Libros IV sententiarum* in *Opera*, vol. xxx, 4.31.18.
75. In *Libros IV sententiarum* ed. Vives (Paris, 1871), 4.31.2.3, “Expositio textus.”
76. *Summa theologica* (Leonine ed. Rome, 1882) 2.2.154.11 and 12.
77. *Id.* at 2.2.64.8, reply to objection 2. The topic was “whether one who kills a man by chance incurs the guilt of homicide?” Like the Septuagint version of Exodus, Thomas held that striking a pregnant woman was an illicit deed, and if the death of either the woman or the ensouled fetus followed, it was homicide.
78. That a being does not have a rational soul at conception formed a principal objection for him to the doctrine of the Immaculate Conception of Mary, which he denied, In *libros IV sententiarum* 3.1.1.: she was “sanctified” in the womb, but “when it definitely was, is uncertain.”
79. The passage occurs in explaining why Aristotle accepted a lesser evil in accepting abortion. In *octo libros Politicorum* 7.12.
80. ALBERT, In *libros IV sententiarum* 4.31.22; THOMAS, In *libros IV sententiarum* 4.31.2.3, “Expositio textus.”

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81. *In libros IV sententiarum* 1.1.3 ad 4.
82. A leading teacher at Paris in the late twelfth century, Peter Cantor, had condemned the opinion of some that a woman could “procure a poison of sterility” to prevent conception when childbirth would be fatal to her. Peter said simply, “This is prohibited in every case” (*Summa de sacramentis* 350, ed. Jean-A. Dugauquier, Louvain, 1965, III² 463-64). He doubtless had in mind the controlling canons, *Aliquando* and *Si aliquis*.
83. *Summa theologica* 2-2.64. 2. and 6.
84. *Id.* at 2-2.64.7.
85. *Id.* at ad 4.
86. THOMAS, *Quodlibeta* 8.14.
87. *Summa theologica* 2.2.64.6. The thrust of this article is the distinction between “sinners” who may be killed by public authority and the “innocent” who may not. In *De malo* he stated, “to kill the innocent imports a determination of evil, and this can never be well done” (*De malo* 13.4 at 11). The remark occurred in a discussion of the intrinsic evil of usury, and it would be probably unwise to read it as applying definitely to every case of killing from necessity.
88. H. HURTER, *Nomenclator literarius theologiae catholicae* (Innsbruck, 1906) 2.537.
89. JOHN OF NAPLES, *Quodlibeta*, as quoted in SILVESTER DA PRIERAS, *Summa summarum quae sylvestrina dicitur* (1518) at “Medicus,” 4.
90. *Summa sacrae theologiae* (Venice, 1581) 3.7.2. “The Various Vices of Physicians.”
91. *Id.* at 2.7.8, dealing with abortion by women who had conceived in fornication, adultery, or incest. It is “homicide,” but “it is not reputed homicide.” In his earlier manual for confessors, he had provided interrogations on abortion.
92. *Summa summarum supra* n. 89.
93. HURTER, *Nomenclator supra* n. 88, at 3.344-347.
94. NAVARRUS, *Enchiridion seu manuale confessariorum et poenitentiarum, 3 Opera* (Lyons, 1594) c. 25, nn. 60-64, “The Sins of Physicians and Surgeons,” 4. The printed gloss in this edition added, “John of Naples, St. Antoninus, Sylvester, and commonly.”
95. NAVARRUS, *Consilia*, 5.22, in 4 *Opera* (Rome, 1591).
96. *De sancto matrimonii sacramento* (Venice, 1737) 9.17.15.
97. *Id.* at 2.22.17.
98. Sanchez, *De sancto matrimonii sacramento* at 9.20.9.
99. *Id.* at 9.20.8, 11-12.
100. *De sancto matrimonii sacramento* at 9. 20.11.
101. *Id.* at 9.22. On this point Sanchez followed his Dominican contemporary PEDRO DE LEDESMA, *De magno matrimonii sacramento* (Venice, 1595) 64.1.4.
102. *De sancto matrimonii sacramento* at 9.20.9.
103. *Id.* at 9.20.7, 13.
104. *De sancto matrimonii sacramento* at 9.20.13-17.
105. LEONARD LESSIUS, *De iustitia et iure* (Lyons, 1653) 2.9.2.58. The quotation from Cajetan was taken from CAJETAN, *In summam theologicam S. Thomas Aquinatis* 2.2.76.2.
106. LESSIUS, 2.9.10.61.
107. LIGUORI, *Theologia moralis*, in *Opera omnia*, ed. L. Gaudé (Rome, 1905), book 3, n. 394.
108. *Id.*
109. See, for example, *supra*, sec. III, the split on interpretation of *Si aliquis*. For later example note that the theologians of the Holy Office were taking a hard legislative line, while moralists were taking a soft speculative one, *infra*, sec. V.
110. Navarrus, *Consilia supra* n. 95, at 5.22.
111. *Effraenatam, Codicis iuris fontes*, ed. P. Gasparri (Rome, 1927) vol. I, p. 308. On the bull’s relation to prostitution, see NOONAN, *Contraception supra* n. 16, at 362-63.
112. *Sedes apostolica, Codicis iuris fontes* I, 330-331.
113. On the history of the Louvain efforts, see FRANCIS DEININGER, *Joannes Sinnich: der Kampf der Louvener Universität gegen den Laxismus* 53 (Düsseldorf, 1938).
114. *Enchiridion symbolorum definitionum et declarationum re rebus fidei et morum*, ed. H. Denzinger, rev. Adolf Schönmetzer (Barcelona, 1963). Hereafter Denzinger.
115. CARAMUEL Y LOBKOWICZ, *Theologia moralis fundamentalis libri* (Lyons, 1675).
116. See (Anonymous) “De animatione foetus,” 11 *Nouvelle revue théologique* 182 (1879).
117. *Quaestiones medico-legales* (Lyons, 1701) 9.1.

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118. *Id.* at 9.5.
119. *Id.* at 9.1.
120. “De animatione foetus” *supra* n. 116, at 182.
121. ZACCHIA, *Quaestiones supra* n. 117, at 9.5.
122. *Universale moralis theologia ad usum confessoriorum* (Lucca, 1834) 11.1.2.3.
123. LIGUORI, *Theologia moralis* 6.394. Elsewhere, on baptism, he said that an aborted fetus was also to be baptized conditionally, “especially since today there flourishes the opinion, received not without approbation from experts, that the fetus from the beginning of conception, or at least several days, is informed by a soul,” 6.121.
124. *Quaestiones supra* n. 117, at 9.5.
125. ALPHONSE DE SADE, *La philosophie dans le boudoir* c. 2. De Sade, in passing, contended that France was overpopulated and that the “Chinese” practice of abandoning infants was desirable; but these themes were subordinated to his general celebration of unrestrained lust and cruelty as rational.
126. CHARLES H. POUTHAS, *la Population française pendant la première moitié du 19e siècle* 21 (Paris, 1956).
127. JACQUES BERTILLON, *La Dépopulation de la France* 240-244 (Paris, 1911).
128. See, e.g., ROBERT TALMAY, *Histoire du mouvement familial en France* 1896-1939, at 106, 210-212 (Aubenas, 1962); FEDERICO MARCONCINI, *Culle vuote* 210-211 (Alba, 1945); Bishops of Switzerland, “Le Droit à la vie,” *55 Documentation catholique* 205 (1958).
129. See “De animatione foetus” *supra* n. 116, at 184.
130. *Ineffabilis Deus*, Denzinger at 1641.
131. *Compendium theologia moralis* (1864 ed.), “De praeceptis decalogi,” n. 402.
132. “De animatione foetus” *supra* n. 116, at 186. A commentary on *Apostolicae Sedis* in the same magazine (p. 331), however, contended that the old distinction stood.
133. *Théologie morale à l’usage des curés et des confesseurs* n. 621 (Paris, 1874 ed.).
134. 1 *Theologia moralis* n. 840 (Freiburg i. Br., 5th ed., 1888).
135. 2 *Theologia moralis* n. 622 (Bruges, 1924).
136. BERNARD HÄRING, 3 *The Law of Christ* 206, trans. by Edward Kaiser from the 7th German ed. (New York, 1966).
137. Liguori, *Theologia moralis* 3.383.
138. Compare Häring, *Law of Christ supra* n. 136 with Charles E. Curran, *A New Look at Christian Morality* 242 (Notre Dame, 1968).
139. SECOND VATICAN COUNCIL, *Gaudium et spes* 80.
140. The prevailing view was that *Effraenatam* intended to apply to the mother, but that as the opposite interpretation was “probable,” the benign view had to be observed in practice. “Avortement,” 1 *Dictionnaire de théologie catholique* 2651.
141. *Codex juris canonici*, c.2350. Canon 985 suspends any priests procuring abortion of a “human fetus.”
142. To the Archbishop of Lyons, May 31, 1889. Denzinger, n. 1889. As recently as November 28, 1872, the Sacred Penitentiary, when asked if a craniotomy could be actually performed, had answered, “Consult approved authors, old and new, and act prudently.” Old approved authors like Sanchez probably could have been interpreted to authorize the operation to save the mother’s life.
143. To the Archbishop of Cambrai, August 19, 1889. Denzinger, n. 1890. The questions, submitted in 1886, are printed in full in T. LINCOLN BOUSCAREN, *Ethics of Ectopic Operations* 183-186 (Chicago, 1933).
144. To the Archbishop of Cambrai, July 24, 1895. Denzinger, n. 1890a.
145. To the Archbishop of Sinaloa, Mexico, May 4, 1898. Denzinger, n. 1890b.
146. To the Dean of the Faculty of Theology of the University of Montreal, March 5, 1902. Denzinger, n. 1890c.
147. The morality of aborting an ectopic pregnancy had been presented by three of the six questions raised by the Archbishop of Cambrai in 1886. The general, negative response by the Holy Office in 1886 had made no distinction between abortion in this case and other cases of therapeutic abortion. In 1892, however, the morality of the ectopic case was debated as a “new” question in the *Ecclesiastical Review*. Joseph Aertyns denied that abortion was lawful here, *Ecclesiastical Review* 10.62; Thomas Sabetti argued that the ectopic fetus could be treated as a “materially unjust aggressor” and destroyed, *ibid.* 9.347; Lehmkuhl defended the practice as “indirect” abortion. *ibid.* 10.62. The controversy continued in Rome with A. Eschbach, rector of the French Seminary in Rome, attacking Lehmkuhl for not accepting the Holy Office decisions of 1884, 1886, and 1889, “Casu de ectopicus seu extra-uterinus conceptus,” 2 *Analecta Ecclesiastica* 88 (1894). Lehmkuhl vigorously defended himself, *id.* at 220 and 321. When the 1895 decree appeared, the editors of *Analecta Ecclesiastica* asserted that the question had been decisively determined against Lehmkuhl, *ibid.* 3.482. The

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question, however, was not explicitly answered until 1902, and the 1902 decree did seem to foreclose all discussion. But, as will be seen, this was not the last word.

148. See LEHMKUHL, 1 *Theologia moralis supra* n. 134, at n. 1002.

149. VERMEERSCH, 2 *Theologia moralis supra* n. 135, at n. 630.

150. HAVELOCK ELLIS, 6 *Studies in the Psychology of Sex* 607 (1924).

151. PIUS XI, *Casti connubii, Acta apostolicae sedis* 22.562 (1930).

152. *Id.* at 563.

153. VERMEERSCH had remarked on the law in 2 *Theologia moralis* n. 630.

154. PIUS XI, *Casti connubii supra* n. 151, at 564.

155. PIUS XII, *Address to the Italian Catholic Society of Midwives, Acta apostolicae sedis* 43:838-39 (1951).

The draftsmen of this statement were the German Jesuits Franz Hürth and Robert Leiber, according to an interview I have had with Father Leiber.

The most recent condemnation of even therapeutic abortion is Paul VI, *Humanae vitae, Acta apostolicae sedis* 60:481-503 (1968), an encyclical whose concern to protect human life led to comprehensive rule-making against a variety of means interrupting the process of generation.

156. Second Vatican Council, *De ecclesia in mundo huius temporis (Gaudium et spes)*, secs. 47-50.

157. *Id.* at sec. 51.

158. Second Vatican Council, *Schema constitutionis pastoralis, De ecclesia in mundo huius temporis: Expensio modorum* pt. 2, p. 36, n. 101 (1965). The words "in utero" were struck because of the objection that "the fertilized ovum, although not yet in the uterus is sacred." In striking this language, the drafting committee said, "the time of animation is not touched on."

The distinction made by the Second Vatican Council between contraception and abortion was again blurred by the encyclical *Humanae vitae supra*, n. 155.

159. LEHMKUHL, 1 *Theologia moralis supra* n. 134 at 841.

160. The substance of Pestalozzi's article, and theological reaction to it, are set out in Agostino Gemelli, "De l'avortement indirect," 60 *Nouvelle revue théologique* 509 (1933).

161. This is the critical description of Lehmkuhl's presentation given by BOUSCAREN, *Ectopic Operations supra* n. 143, at 33.

162. The manuals of Noldin-Schmitt (2.341) and Sabetti-Barrett (273) decided the operation to be lawful. Vermeersch hesitated in his 1924 edition, but decided in favor of the operation in his 1928 edition (*Theologia moralis* n. 628). See BOUSCAREN at 31-32.

163. BOUSCAREN, *Ectopic Operations supra* n. 143, at 167.

164. LEHMKULH (1910 ed.), 1 *Theologia moralis supra* n. 134, at n. 1010.

165. VERMEERSCH, "Avortement direct ou indirect," 60 *Nouvelle revue théologique* 600 (1933).

166. GEMELLI, "Avortement indirect" *supra* n. 160, at 520-27.

167. VERMEERSCH, "Une courte conclusion," 60 *Nouvelle revue théologique* 695 (1933).

168. GEMELLI, "Encore l'avortement indirect," 60 *Nouvelle revue théologique* 693 (1933).

169. E.g., "Catholic reasoning on the subject of therapeutic abortion is inconsistent with its own principles."

GLANVILLE WILLIAMS, *The Sanctity of Life and the Criminal Law* 704 (1957).

170. VERMEERSCH, 2 *Theologia moralis supra* n. 135, at n. 630.

171. *Id.* at n. 623.

172. Bouscaren cited figures showing that roughly 1% of observed pregnancies in the 1920s were ectopic pregnancies. BOUSCAREN, *Ectopic Operations supra* n. 143, at 102.

173. According to Glanville Williams (*The Sanctity of Human Life supra* n. 169, at 193), "The historical reason for the Catholic objection to abortion is the same as for the Christian Church's historical opposition to infanticide: the horror of bringing about the death of an unbaptized child." This statement is made without any citation of evidence. As has been seen, desire to administer baptism could, in the Middle Ages, even be urged as a reason for procuring an abortion. It is highly regrettable that the American Law Institute was apparently misled by Williams' account and repeated after him the same baseless statement. See American Law Institute, *Model Penal Code: Tentative Draft No. 9* (1959), p. 148, n. 12.

174. E.g., R. L. BRINSTER and J. L. THOMPSON, "Development of Eight-Cell Mouse Embryos in Vitro," 42 *Experimental Cell Research* 308 (1966).

175. J. EDGAR MORISON, *Fetal and Neonatal Pathology* 99-100 (1963).

176. PETER GRUENWALD, "Growth of the Human Fetus," 94 *American Journal of Obstetrics and Gynecology* 1112 (1966).

177. MORISON, *Fetal and Neonatal Pathology supra* n. 175, at 101.

178. This line of thought was advanced by some participants at the International Conference on Abortion

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sponsored by the Harvard Divinity School in cooperation with the Joseph P. Kennedy, Jr., Foundation in Washington, D.C., Sept. 8-10, 1967.

179. FRANK D. ALLAN, *Essentials of Human Embryology* 165 (1960).

180. FREDERICK J. GOTTLEIB, *Developmental Genetics* 28 (1966).

181. ALLAN, *Essentials of Human Embryology supra* n. 179, at 165.

182. See DAVID W. LOUISELL and JOHN T. NOONAN, JR., "Constitutional Balance," *infra*.

183. Another line of thought advanced at the Conference mentioned in n. 178. Thomas Aquinas gave an analogous reason against baptizing a fetus in the womb: "As long as it exists in the womb of the mother, it cannot be subject to the operation of the ministers of the Church as it is not known to men" (*In sententias Petri Lombardi* 4.6 1.1.2).

184. Compare JOHN O'CONNOR, "Humanity and Abortion," 12 *Natural Law Forum* 128-130 (1968), with JOHN T. NOONAN, JR. "Deciding Who is Human," 12 *Natural Law Forum* 134-138.

185. A Famous passage of Montesquieu reads:

Ceux dont il s'agit sont noirs depuis les pieds jusqu'à la tête; et ils ont le nez si écrasé qu'il est presque impossible de les plaindre.

On ne peut se mettre dans l'esprit que Dieu qui est un être très-sage, ait mis une âme, surtout une âme bonne, dans un corps tout noir.

Il est si naturel de penser que c'est la couleur qui constitue l'essence de l'humanité, que les peuples d'Asie, qui font des eunuques, privent toujours les noirs du rapport qu'ils ont avec nous d'une façon plus marquée." Montesquieu, *De l'esprit des lois*, in *Oeuvres Complètes* book 15, chap. 5 (Paris, 1843).

186. J. S. BAXTER, *Frazer's Manual of Embryology* 5 (1963).

187. GREGORY PINCUS, *The Control of Fertility* 197 (1965).

188. *Idem*. Apparently there is some small variation by region.

189. GOTTLEIB, *Developmental Genetics supra* n. 180, at 17.

The Choice Ethic

Frank Zepezauer

*Two roads diverged in a yellow wood,
And sorry I could not travel both
And be one traveller, long I stood
And looked down one as far as I could
To where it bent in the undergrowth;*

*Then took the other, as just as fair,
And having perhaps the better claim,
Because it was grassy and wanted wear;
Though as for that the passing there
Had worn them really about the same,*

*And both that morning equally lay
In leaves no step had trodden black.
Oh, I kept the first for another day!
Yet knowing how way leads on to way,
I doubted if I should ever come back.*

*I shall be telling this with a sigh
Somewhere ages and ages hence:
Two roads diverged in a wood, and I—
I took the one less travelled by,
And that has made all the difference.*

THE ROAD NOT TAKEN

Robert Frost

FROST'S POEM ONCE SERVED as an anthem to an individualism shaped and hardened by significant choice. Yet today it transmits an antique sound. Its words repeat a value whose substance has been lost to a new ethic which subordinates motive and result and shared standards to choice itself. It weakens the kind of choice we call commitment, deprives many other choices of moral meaning and encourages a statism that will deny choice altogether.

The Road Not Taken reminds us of the commitment we now try to restore. The narrator studied two equally attractive alternatives, regretted he could not take both, and then chose one and stayed with it. His choice

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thus distinguished between essential and contingent decisions. Choosing one road meant that every choice thereafter was guided by the determination to stick with the first fundamental choice. Chance and circumstance thus always confronted basic conviction. Circumstance opened to him life's rich possibilities and conviction shut him into its limitations. You take one road and soon way leads to way and other roads fade into memory. Life is a feast, but you can't have it all.

For many women in the past, and for a stubborn remnant today, pregnancy also chanced upon basic commitment. A being came alive in the womb, a fact for which an earlier choice shaped responsible adaptations, what you must do to continue on your chosen road. But today the maternal mind labors with a different problem: not how to stay with your fundamental choice but how to choose between two new alternatives. And while these options confound the response to pregnancy, commitment is put on hold. Tentativeness postpones action.

A feminist newspaperwoman, Joan Beck, has quarreled with this maybe yes-maybe no style of pregnancy. Like most people who studied embryology, she sees a human where her liberationist sisters see disposable protoplasm. She sees in this "mindset" not only obvious danger to the "unwanted" child, but hazards as well to the lucky survivors who found themselves for a while in a mother who had not yet made up her mind whether she wanted to *be* a mother. If, from the beginning, a woman's mind has set for itself the identity of "mother"—a fixed condition with clear responsibilities—she will live with the recognition that another life now makes a claim on her own. Every habit, whim or choice . . . thought and feeling itself . . . will be guided by accepted reality. What she eats or drinks or smokes, breathes in, injects or swallows . . . each will be tested by the needs of the child growing within her. If those needs must wait until further decision, they might receive indifferent attention if they are met at all. You don't prepare very well for dinner guests while you're still deciding to invite them.

Nor will you prepare like a proper host if you plan to throw your guests out if you find you don't like them. Even a short while ago, the decision to abort or to continue a pregnancy occasioned a commitment of sorts, delayed and sometimes grasped at during a time when the reasons for keeping a child could be as shallow as the reasons for killing it. But it was a commitment nevertheless, ballyhooed as an exercise of a funda-

mental new right. One was free to choose and one had freely chosen. But the queasy tentativeness that postponed full commitment to motherhood has by extension continued right through pregnancy into the early life of the infant. Killing the newborn has spread, not only because the logic of abortion carries beyond pregnancy, but also because a deferred commitment builds the option-balancing quandaries that put even recently arrived children at risk. Thus the firm necessity that defines motherhood shrivels further into annoying contingency while the maybe-mother wonders whether she will, in Nat Hentoff's phrase, exercise her right to a "thirty day return guarantee." In this way those who demanded abortion as their constitutional right now violate the very law they demanded. The Supreme Court, mystified about life's beginning, could still find in the First Amendment protection for the new born. Pro-choicers, however, worship a still higher law, which is choice itself.

But the higher law of choice means at least that choice *must* eventually be made, and with it comes the possibility that commitment, however deferred and thinned out, may finally embrace the child and guide his upbringing. It might, and then again, it might not, because options beget options and the child who rejoices in a maternal will that chose to keep him must now wait on further choices. Would he grow up in a two-parent family? The odds are now even that he won't, perhaps most likely because one of his parents will choose to scuttle the marriage, at which point the odds heavily favor the choice that will deny him a father. In that likelihood he may possibly find firm commitment under the constantly shifting sands of choice. Motherhood, once chosen, supposedly remains steadfast. But the choice maker who bestowed life upon him may entertain further doubts. The road *not* taken may continue to plague her. She chose to keep him, but she could have chosen otherwise, and when his needs press on hers, he might represent not what she gained, but what she lost. His presumptuous appearance in her womb prompted a weighing between alternatives, between a blessing and a burden. What could have once been a burden could become a burden again, and if the needs of the parental self once weighed heavily during a tentative pregnancy, why can't they be consulted again? A child of choice thus becomes its victim.

What could happen doesn't always determine what does happen. But we know what has already happened. Now that the choice ethic trans-

forms each surviving child into a privileged member of the increasingly exclusive club of humans, we now find fewer and fewer of them and treat them with less and less hospitality. We seem to hate the children we so generously “want.” We consign many of them to nannies or to day care centers, hoping they’ll find enough commitment to subordinate greed, incompetence and bureaucratic apathy. We hand them latch keys and feed their boundless curiosity with two hundred square inches of dancing electrons. We abandon them to the reciprocating confusions of their peer group and the isolating distortions of their fantasies. We bounce them between warring ex-spouses. We batter and abuse and sexually molest them. We alienate them from their grandparents. We cut them off from their family histories. We drag them into ad hoc alternative families with shifting memberships. We see a million of them a year running away from home, many thousands killing themselves, thousands more killing their spirits. Even when we work to strengthen our marriages and protect our families, we find whole sections of our cities out of bounds to families with children and tax laws that favor the dual-income aristocrats of Yupieland. Is the choice ethic to blame for all of this? Perhaps not, but an ethic that makes children and spouses and two-parent households increasingly hostage to choice eventually denies them the commitment needed to sustain them. To what can you commit yourself except to more choice or to the Self whose needs the choice-maker primarily consults?

But even when the Self decides that it wants to keep spouse and child and family, it may lack the preparation that turns choice into commitment. The “mind set” that Joan Beck referred to does not suddenly firm up at the news of pregnancy. For many of us it began much earlier at a moment of sober ritual and high festivity when nuptial vows were exchanged, turning private decision into public promise. We called such a weighty choice a “vow” because it declared that you and your partner would pursue your chosen course and honor its obligations. You spoke your vow to a public, those within the range of your voice and all of those who would travel with you in matrimony and those who would be affected by how you honored your vows and those who came before you in the collective effort to maintain the marital ideal and those who would follow taking your work as a legacy . . . and finally, you spoke to God whose will and spirit and law formed the center of the shared enterprise you were undertaking . . . a large public and an important assembly and a

sacred law, all forming a ritual so sacred that it bestowed the grace of a sacrament. You and your partner openly declared which road you would travel and promised to everyone concerned that only with certain exceptions (equally weighty and as solemnly pondered) you would try your best to stay on it.

All this ceremonial—which progressive sneers have reduced to “a silly piece of paper”—not only committed the joining partners to work at a relationship “for better or worse, for richer or poorer, in sickness and in health,” but also ratified what has become one of Judeo-Christianity’s most unpopular doctrines. It declares that the high purpose of marriage makes conjugal sex procreational and that sex is licit only within matrimony. It does not mean that a husband and wife may not make love only to express love, but it does mean that begetting new life defines the primary purpose of sex and establishes its essential obligation. It builds the “mind set” that will greet the news of pregnancy not with perplexity about options but with at least a commitment to responsible care—if not joy.

If the nuptial vows helped prepare us for pregnancy, our upbringing into church and culture prepared us for the nuptial vows, which meant that learning how to make commitments began almost as early as our first moment in our mother’s arms. As we grew up we learned how to be men and women, husband and wives, fathers and mothers. We learned from what we were told and from what we observed and from the assumptions that we absorbed. The learning was less than perfect, and we’ve heard much lately about the imperfections, but the ideal remained firm enough before us so that at least we had some standard by which to measure imperfection. In many areas of our culture such preparation for the commitment to marriage and mothering has been rejected by other progressive sneers about “sex role stereotyping” and “societal expectations” . . . sneered at primarily because they are seen as enemies of choice. Concerned with keeping her options open, we now beguile the potential mother with a smorgasbord of choices, parade before her an army of “role models” and quarrel whether we should even permit her to play with a doll (or to give it to her brother) out of fear that she might be locked in too early, into only one choice, maybe even worse because it is our choice rather than hers.

The modern child has more trouble making commitments not only

because he has less preparation in how and when to make them, but also because the choice ethic flattens out all choices making it more difficult for the chooser to select between fundamental and subordinate options. And even when he sorts out some as more important than others, he is thrown back into himself. What *he* considers a fundamental choice is merely *his* opinion, not a promise to honor a universally established obligation. Within the Self he flounders further. He makes choices under the new ethic in order to authenticate himself, to find out "who he really is." But how does he know he has finally found out? After every choice he may find the person that has now been discovered by choice still lacks the fulfillment he seeks, whatever *that* is, and so he is enticed into further choice, dumping a wife or a career or a vocation in the hopes that he will finally find his Self filled to the full. Under traditional procedures he might have had standards against which to test his Self. Was he a good husband or father? The standards squeezed him in, no doubt, and hypocrisy rather than compassion often measured him with unjust severity, but he at least had some notion of how far he had traveled, or how far he had deviated, on the road he had chosen. But left with nothing but his Self he could only search his vast, dark and mysterious interiors, like a desperate Puritan searching for signs of election. So everywhere he finds choice springing from choice and nowhere does he make a commitment except to a state of personal being it is his task to discover and whose nature he may not recognize when he reaches it.

By the same token, the tentativeness that emphasizes further options rather than commitment to a few fundamental choices often leads to a kind of drift where one is enclosed by circumstance so tightly that he no longer chooses at all but leaps about desperately for escape. We can easily conceive of young men and women declaring at an early age that they would become mothers or fathers and have ten children and live like Renaissance princes. It's harder to conceive of a youngster today declaring plans to become an unmarried welfare mother or a three-time divorcee or an elective single parent or a child-aborting mother or even a live-in lover. These conditions usually come not as one road taken among two but as the only way out, a fretful effort to beat the biological time clock undertaken by women who laughed at the notion of maternal instinct or a childish deference to popular trend or a decision to remain

indecisive, letting events dictate your life while you wait, like Godot, for options to open up once more.

We are reminded again that under the Judeo-Christian tradition, people entered bad marriages for bad reasons, or were forced to enter them because of older variations of indecisive drift, and often found a third or fourth or fifth or sixth child a catastrophe regardless of commitment to churchly values. It was revulsion at what such tragedies did to individuals, the constant press of law and rule on limitless potentiality, that powered the drive to establish the choice ethic. But the old ethic which has a past with verifiable flaws has been tested by a new ethic which has, for the most part, only a future with gleaming promise. What past it has already established makes the old ethic look much better. Those who worship choice but also cry for commitment will have better luck looking back at how it was once brought about rather than forward in the hope that infinite choice will finally yield firm promise and enduring relationship.

The choice ethic not only frustrates commitment but meaningful choice itself. Look once more at Frost's poem. He took the "other" because it was "just as fair." Both roads that morning "equally lay" in "leaves no step had trodden black." The narrator thus chose between two equally attractive and significant roads. Unless some parity exists between alternatives—either both attractive or, as often happens in statesmanship, both unpleasant—genuine choice disappears. Whether to buy an item for \$50.00 rather than \$500.00 is no choice at all. Squandering money in this case does not show the working of judgment but its absence. By the same token, when the choice to abort a child or a marriage does not confront two roughly balanced alternatives, it becomes instead a bowing to the obvious or an indulgence of the will. The constant reference, even today, of the hard cases that opened the way to the abortion freedom—the desperate unmarried woman, the rape or incest victim, the potentially damaged child, the physically endangered mother—recall the time when destroying the unborn was a weighty undertaking which demanded an accounting. It had to be argued that what was killed was indeed a baby whose continued existence nevertheless, in those special circumstances, had become the greater of two evils.

But the choice ethic has trivialized the choice to abort. To kill or not to kill a human being, that was indeed a weighty question, productive some-

times of even heroic choice. But to rid oneself of a cellular intrusion in a procedure as ordinary as wart sanding or to choose between a blob of protoplasm and an Interrupted Career, barely qualifies as choice, only embracing the obvious. The pro-abortionist argument that many women still do, in fact, anguish over their choice still defers to obsolescent values fading behind an emerging value which permits any abortion for any reason. We can hope every destroyed child loses his life to a solemn decision thoroughly debated, but we can't demand it nor can we demand a public accounting because "private choice" has become as privileged as a tabernacle. Thus we play "let's pretend" and assume that the drama of the hard cases is re-enacted every year in one million and five hundred thousand abortions, or worse: that the choice to kill a child was the result of a solemn deliberation simply *because* the women chose to kill. The choice itself gives weight to the decision, not the reasons that prompted it.

By such ways the choice ethic reduces its own honorifics, "personal choice" and "private morality" to oxymoronic nonsense. Moral decision assumes public standards. Even appealing to the icons of pluralism such as "tolerance" and "freedom" assumes a universal value. To chasten someone for "intolerance" implies that both you and he defer to the same rule. You are not imposing *your* value on his but identifying the value you both share. Similarly, "private conscience" can only be private in the sense that no rule, no matter how exquisitely refined by talmudic ecclesiastical commentary, will precisely fit unique circumstance. "Thou shalt not kill" serves in most situations, and where it does not, it must still be applied as part of an argument which justifies the exception to the court of public opinion. We will exonerate one who chooses to kill only if his violation of one universal rule followed from deference to another universal rule still more basic, such as the welfare of society in the case of capital punishment. We then judge not only his act but his justification, measuring particular context against general rule. His act remains private, his conscience privileged only in the sense that we on the outside judging after the event can never fully re-create the complex of fact and feeling and law that formed the reality of his circumstances. We leave what we cannot penetrate to his confessor or to God, deferring once more to universal standards. But we can still hold him to a partial accounting by testing his reasoning and inferring his motives. Otherwise we could never convict or acquit a criminal. If we expand the meaning of "private" to the

point where everything that played a role in a critical action is forever closed to the rest of us who must live with its consequences, we ourselves lose choice because we are compelled to forgive whatever is identified as “private.” And if we demand no other justification than “I felt it was right” or “For me it was right,” then we universalize the law of private feeling and face moral chaos. That is one reason why the abortion debate so sharply divides the nation. A community, no matter how secular its polity or how deep its commitment to pluralism, cannot divide into privileged factions unless at some point it unites around primary values. The abortion freedom also imposes on us the choice ethic, and we are not agreed that we all want to live under its dominion.

Forcing those outside of the choice ethic to forgive actions whose motives they cannot see and whose reasons they may not judge, shows that the ethic which values choice above everything else can end by denying choice altogether. Joseph Sobran (*Human Life Review*, Fall 1984) explored some of the ways that bring us to no-choice. He showed that when you cut through all their evasions and word play, you find that what pro-choicers really promote is not choice so much as abortion itself. In America they lobby the media and the government toward policies which make abortion the only way to go in situations where, presumably, two roads diverge at the point of decision. In totalitarian states like Russia and China, the pretext of free choice is abandoned altogether; everyone takes the road the government tells them to take. Sobran draws further examples from the duplicity of liberals who conceal their yearning for statist socialism while singing hymns to equality and freedom.

We can find still other examples. Homosexuality was once considered a moral problem because the act—and to some extent, the condition—implied choice. But according to Gay Rights ideology homosexuality has been re-defined as a condition so permanently fixed that it compares with skin color and gender. The ideology is so widely accepted that even those with severe misgivings about homosexuality feel uncomfortable questioning a condition that wasn't chosen and can't be changed. This attitude confounds those homosexuals who try to change because they still believe they *can* or *should* change. One former homosexual now helping others with similar struggles finds himself in an invisible minority, a member of a group which liberal opinion says can not exist. And because he does not exist, he can not get funding, much less publicity, to bring choice

back to homosexuality. At the same time, a psychologist who has helped many homosexuals make and maintain the choice to become straight now finds his work handicapped by a professional as well as a public attitude that insists homosexuality can only be adjusted to, not changed. And young men and women, wondering whether they are or are not homosexual are denied full consideration of one alternative and are forced to embrace “who they really are” which translates to “what you always were.” The choice ethic, whose primary purpose is to open up the choices which will let people discover who they really are, has nothing to say to those puzzled young people except to join the next Gay Rights parade.

Another example bubbles up from that great fountain of contradiction, feminist ideology. In the beginning of the women’s movement, militants insisted that what they were really about was “options.” At the time one of the most important pair of options was between traditional homemaking and careerism. But the intense hostility against traditional femininity, amplified daily in the media, turned the homemaker option into a decision to embrace slavery. By the end of the seventies, the image of the traditional housewife has been so thoroughly trashed that few young women would dare to admit to taking it seriously, not even on a temporary basis, which was, in fact, the choice of both Phyllis Schlafly and Geraldine Ferraro, two role models playing in vastly different scenarios. But even that sensible compromise bothered progressive ideologues because they could not tolerate an economy which mixed one career with two career families. In a 1979 seminar on the status of women at Stanford University, a feminist laid down the new line. With one fifth of the population still living in “traditional families,” she declared, the rest of us had “to pay for the price of *deviance*” (my italics). When a panel member replied that women should still retain their options between homemaking and careers, the theoretician denounced her suggestion, calling it a “conservative position which should be challenged.” “As long as we have two classes of people,” she said, “one of whom has to work and the other of whom *has a choice*, women will always be second class citizens” (my italics). In enlightened economies such as socialist Sweden and communist Russia—where feminists would like to take us in the name of freedom—women who choose to be homemakers are called “parasites” punished by law and by righteous indignation. At that point

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we find that the road not taken is the road that no one takes.

Frost said in his poem that his choice—the one he took and held and grew by—although less traveled by, “made all the difference.” The distance we’ve traveled into the choice ethic will also make all the difference because those who follow us might not have the chance to choose at all.

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[*The following excerpts were transcribed from a recording of the address of Mrs. Clare Boothe Luce to the National Press Club in Washington on Oct. 24, 1984. Mrs. Luce was introduced by Mr. John Fogarty, the club's president.*]

“Politics into Religion and *Vice Versa*”

MR. FOGARTY: The Chinese have a curse and that curse is: May you live in interesting times. Our speaker today has lived in interesting times and I'd have to say from reading her background that she certainly made the most of it.

She has been an editor, a foreign correspondent during World War II, a playwright, an investor, a congresswoman at a time when there weren't very many congresswomen, U.S. Ambassador to Italy. She is the widow of Henry R. Luce, who founded *Time Magazine*. She currently serves on President Reagan's Foreign Intelligence Advisory Board. In 1983 the President awarded her the Medal of Freedom. She maintains an active speaking schedule and continues to demonstrate the bluntness that earned her the nickname, quote, “Arsenic and old Luce” [*laughter*], when she was Ambassador to Italy. There are a lot of examples of that but I'll just give you one. She has, for example, named her ulcers Qaddafi and Begin.

Over the years we've had many distinguished people speak at this club and it is my pleasure to add to that list today by welcoming Clare Boothe Luce. [*Applause.*]

MRS. LUCE: Mr. President, members of the Press Club, ladies and gentlemen, let me first begin by congratulating Mr. Galloway on having received the H. L. Mencken Award. I am sure he would be very proud of you indeed today.

I knew Mr. Mencken in his declining years and my pristine years [*laughter*] and that was in the Twenties. I only have one unusual story to tell you about him, or at least in which he figured. There was a big party being given by the then-most-famous hostess with the mostest, Elsa Maxwell. I called Miss Maxwell, having an invitation myself, and said to her: “A great friend of mine, H. L. Mencken, is coming to town. May I bring him to the party this evening?” She said to me, “Not *the* H. L. Mencken?” I said, “Yes, *the* H. L. Mencken.” She said, “Most certainly you can't bring him.” [*Laughter.*]

I said: “And why not, Elsa?” She says: “He's a genius. There's nothing that ruins a good party like a genius.” [*Laughter.*]

I would also like to tell you that when I received that very gracious letter of invitation from your president, Mr. Fogarty, I was informed that—I now quote—“The National Press Club offers one of the most prestigious forums for

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the top newsmakers of the world: presidents, foreign leaders of state, cabinet members, senators and representatives, governors, intellectuals, business leaders have come here to tell their stories.” Since I don’t fit any of those categories, I can’t help wondering what I am *doing* here, on this forum.

I am reminded of the *New Yorker* cartoon. It shows the directors seated around the board of directors’ table, and on the table there lies a box, and on the box is the word “New” emblazoned in brilliant neon colors. The chairman looks at it, turns to the advertising manager and says: “What do you mean *new*? What’s new about it?” The ad man replies, “The *new* on the box is what’s new.” [Laughter.]

So I guess what’s new on this podium is that you’ve got a speaker who *isn’t* a world-shaking newsmaker. What’s more, there is nothing new whatever about my subject which you could possibly expect from me today.

I’m not going to be partisan. I’m not even going to *mention* the election. (Besides, it’s almost over.) [Laughter.]

I quite honestly, in my old age, have become more and more non-partisan. I find I go out and read about the issues most carefully. I read the best newspapers, the best news magazines, *the* best news magazine, *Time* [laughter],—I then think about the qualifications of the candidates, their backgrounds, how they comported themselves in the debates, whether one of them may or may not have momentarily fumbled. And having thought these matters over very carefully, very earnestly, I then find I can go out with a clear conscience and vote the straight Republican ticket. [Laughter & applause.]

So that’s why I’m not going to talk to you today about the election.

The subject I am going to talk about is the injection of politics into religion and vice versa. I think you would agree we have been hearing plenty about the injection of religion into politics in this campaign. Everyone, including each of the four national candidates, agrees in principle on separation of church and state. Nobody wants to establish a state church. Besides, it is unconstitutional. Nobody even wants mandatory prayer in the schools. And, well, these points of agreement do suggest that there may be after all a consensus on religion and religious freedom throughout the country.

Amid the gales of controversy it is good to be able to locate even one point of consensus, but I will begin by noting that it is a sociological fact, an historical fact, that religion is the foundation of our Constitution. We are, as Justice William O. Douglas, that well-known conservative [laughter], observed, we are a religious people. Our institutions presuppose a Supreme Being. And those of you who do as I do once a year—I feel sure you do, especially if you are a journalist—read Alexis de Tocqueville’s *Democracy in America*, which is the finest

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report ever made by a foreign journalist on someone else's country, you'll agree.

De Tocqueville, as you remember, simply marvels at the vitality of religion in a nation that lacked an established church. He then said that the very absolutes of legal privilege for every single faith made religion precisely what he found it to be: a very powerful force in American social and public life.

Acting as leaders of private, voluntary institutions and associations, American clergymen have played very crucial roles in political affairs of this nation beginning with the Revolution. Throughout our history, men of the cloth, as they are sometimes called, have been what today we call activists.

They were activists in the abolitionist movement, and, although it is something that the feminist movement of today would like to forget, it was women and clergymen who gave us prohibition. They did so in the name of God, but there was no moral consensus about that amendment, and it consequently was repealed.

The churches of many denominations were deeply involved with the civil rights movement, the peace movement, the disarmament movement, and they are involved today in the so-called freeze movement. And even though their participation has been less and a good deal *later* than one might have expected, the clergy and believers of many faiths have supported the anti-abortion movement.

Americans have never been timid about invoking religion in their political arguments. At times they have done so in rather nasty ways. Thomas Jefferson, for example, was accused by his enemies of being a Deist and doubting that God actively intervened in human affairs. He doubted that America had been founded under the providence of God.

Today we are hearing many charges and counter-charges as to which of the candidates injected religion into politics. The last time I spoke on this forum was shortly before the election eight years ago, and the hottest subject, the one that the audience was the most interested in asking questions about, was religion, especially the born-again religion of Jimmy Carter. So when it comes to injecting religion into politics, there is almost no campaign in which God is not injected by many people.

The real question that always comes up is not *who* injected it, or *was* religion injected, but does the press *approve* of the injection?

The constitutional lawyer, Leo Pfeiffer, has celebrated what he calls the triumph of secular humanism, by which he means that in his view America is no longer a religious country. And it is true secular humanism has won some very major court victories in recent years.

But the triumph is so far from being complete that the very people who used

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to be called secular humanists, and pride themselves on being called that, have now gotten a new label for themselves. They like to call themselves pluralists, and they join the movement which for a short while appeared on television to denounce the injection of religion into politics—it was called “People for the American Way.” That would seem to imply that the way the majority of Americans have traveled for the last two hundred years was somehow, or is somehow, a very un-American activity.

Now all I have to say really is that there is no room to inject religion into politics because there is no possibility whatever that religion can be kept out of politics, and this makes us unique among nations. We all know that. The reason we are unique is that, unlike any other nation in the world, we wrote our own scenario for the kind of life we would live as a people and what sort of people we wanted to be. [*Applause.*]

We began by announcing in the Declaration of Independence that we had certain rights with which we had been endowed, not by any king, not by any tyrant, but by God Almighty himself, and that this was the reason they could not be taken away from us legally and lawfully.

You may be well assured that if God should ever leave—[*very loud noise of falling pots and pans from the kitchen*—not only is He not going to leave, but He’s walking right in—[*loud laughter—applause*]. We know He simply cannot be told to leave because He simply is always there whether you like it or not. But if we should turn our backs on that, if we should reconcile ourselves as a people to the idea of what Pastor [Richard] Neuhaus calls “the naked public square,” devoid of any feeling for morality and the foundation on which it rests—which is religion—if that should happen, dire events will come upon us.

This is the last time I will ever speak on this platform, not because of what I’ve said, but because as has already been pointed out by your president, I am of such an age that it is quite unlikely that I will be asked to fill in before the next presidential election because all the important speakers are on the road. [*Laughter.*]

A little touch of reality is sometimes embarrassing, isn’t it? [*More laughter.*]

Anyway, I’ve used up my twenty minutes, and what I want to say in closing is, when the day comes, if it should come—and I doubt it will—when the American people no longer refer to a higher authority than politics, to a higher authority than the courts, or their belief in what is right and what is wrong—well, no matter how complicated the issue, sooner or later the real question is, is it right or is it wrong?

So I don’t think that time *will* come. I believe in the polls, I really do believe in the polls, and the Gallup poll, which was a worldwide survey of the nations

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of the West and how they felt about religion, the Gallup survey of 1982, the question asked was: "Do you believe in God?" And 95 percent of the American people said "Yes, we do." And that makes us still the most God-fearing people in the world, even if our behavior is not all it should be by a long shot. [Laughter.]

So, in closing I want to say that there is another group of private institutions who inject themselves into politics, and who represent interests, and who represent prophets—probably the highest percentage of prophets in any business in America—and these institutions are what we call today the media.

It sounds very strange to my ears, and probably to yours, to be told that the press is a private enterprise. We have come to think of it as being a public enterprise. In fact, it is frequently referred to by speakers as the Fourth Estate, and it has an enormous place on the public square.

Yet reading the papers, you would wonder if they really had any firm grasp of the force, the driving force, the dynamic force in American life which is this pluralistic religion of our country. I don't think it is because they are indifferent. I don't think it is because the press is hostile. I think they are simply ignorant, ignorant of religion, ignorant of its force, as children are. They do not look into what it is that makes it strong. Let it raise its head in a form that I don't like, that you don't like, in the form of high-tech fundamentalism, they immediately assume that this thing has to be stamped out or else it will take over America.

Religion isn't going to take over America, though it might with God's help make America over. But I read my newspapers—my newspaper—as it almost is here in Washington [laughter]—and I find that religion is down there among the ads on new ways to cook chicken and spaghetti. And I feel sure that it has been relegated to one of the hobbies of Americans and so on, and the average newspaperman thinks that religion isn't scientific and it's something like astrology.

Which reminds me, why do you publish all those horoscopes? [Laughter.]

Of course, I know, money. Anyway, all I have to say is that I hope the American press, which is the freest and in many ways the most responsible press there has been in any period of history despite their partisanship—but that's their fault. They don't think what I think. They have a right to say it. And I do think it is a responsible press. I think it is an always interesting press. But I wish they would devote a little more thought to what it really is that keeps the public square as decent and as moral as it is.

And I would like them, in the greatest seriousness, to ask themselves the question: if we should strike out the foundation of morality, namely religion, what authority would we put in its *place*? [Loud and long applause.]

MR. FOGARTY: Thank you very much, Mrs. Luce. . . . We do have a number of

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questions. What is the most important thing you would want to say to young people of America? What would you want them to know? What would you want to tell them now, at this time, this decade?

MRS. LUCE: It is very difficult to say because what you tell a young person depends largely on what the young person wants to do with his life and how he or she wants to go about it.

I try always to find out what it is a person really wants to do, because that is sure enough the thing they are going to do best.

And then I always say, *try*, because nothing comes easily, and nothing is sweeter than what comes very hard, when you've got there. . . .

MR. FOGARTY: What is your estimate of Congresswoman Ferraro's presence on the Democratic ticket. Does she strengthen it or is she a negative factor on it?

MRS. LUCE: Well, you know, we women are supposed to be a minority. I never understood that myself, since we outnumber men in actual numbers, and we live five years longer. So I never felt like a minority and, as you know, minorities are never supposed to say anything unkind about one another. So I certainly shall make what I call a positive statement. [*Laughter.*]

I think that the job of vice president should be held by someone whose background makes him or her able to fill the role of the President in the worst of circumstances, which would be the sudden death of the President.

I think this point was brilliantly made—I didn't bring the quote with me—by Jack Kennedy, who was asked the same question. He said: "What you want is a woman who is able, efficient, and whose background makes her equipped to be President."

Now, I was in the Congress of the United States for two terms. Before that, I was a fairly successful writer. I also wrote books about foreign policy. And I did a lot of other things this way and that way. And I don't think I would have been a suitable candidate for vice president. You can draw your own conclusion. . . .

MR. FOGARTY: If a woman wants to be powerful, should she run for Congress, be an ambassador, work in the White House, marry a rich man? Just what should she do?

MRS. LUCE: *All of them.* [*Laughter.*]

MR. FOGARTY: And we have one last question which I believe is from a relative of yours. He asks: "Could she please do an imitation of a Russian submarine, and if not, then perhaps Winston Churchill?" [*Laughter.*]

MRS. LUCE: Well. An imitation of Winston Churchill. I will just tell you one little story which is probably *apropos* of world events. When Churchill retired and came to Sicily, he asked me and my husband to come down and spend the weekend with him, and we were flown down—I was Ambassador [to Italy]

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then—in the Embassy plane. And an attache, a dear fellow from Texas, General Cassidy, he *loved* talking about the atom bomb. He was really high on the atom bomb.

So, I said to him on the way down: “Now listen, General, you just keep your big, fat, Texas mouth *shut* about the atom bomb tonight because Winston Churchill has left everything behind him and he is here for a holiday, he wants to paint and play some piquet with me and yack with Harry about whether Harry should have given him a million and a half instead of a million for his memoirs, you know, that kind of thing. [*Laughter.*]

So Cassidy said: Yes, he would refrain from mentioning the bomb.

So, there we are. We were only about eight or ten of us, seated at dinner. And Cassidy was at the other end—I was sitting next to Winston—Cassidy was sitting next to Professor Lindman, who was the scientific advisor to Churchill, and later became Lord Charwell. And suddenly the voices began to *rise* at the other end of the table, and the word “bomb,” and so on, and pretty soon I heard the general say, “Sir Winston, sir, I’m having an argument down here with Lord Charwell, and Lord Charwell says, ‘If we drop that atom bomb there may be a mutation in the species.’ What do you think of *that*, Sir Winston?”

I could have killed him. And Winston put on his glasses and he looked down, and he said, “Well, my dear General [*here Mrs. Luce does an hilarious impersonation of Churchill’s famous voice*], I do not doubt for a shingle shecond [*laughter*] that, if we take thesese forbidden toys out of the closet, there will be shome very melancholy reshults. It is quite possible, General, that your progeny, my progeny, will be born with two heads. But then *General*, how well have we been doing with *one*?” [*Long laughter and standing ovation.*]

POSTSCRIPT

THIS DOUBLE ISSUE (in effect our 41st and 42nd) begins the second decade of our review. To date we have published some 5,000 pages. Loyal and stout indeed is any reader who has read them all. We have not only read them all, but *proof-read* them all (usually several times).

If you dwell on that fact for a moment, you will realize that we could not have done it without the help and support of some remarkable people—precisely what we have been blessed with from the start. Alas, they are too numerous to list here. But we cannot mark this anniversary without mentioning several who labored with memorable faithfulness. In the early days, we surely would have foundered without the omnicompetent Josephine Gallagher, whose departure was made bearable only because of the circumstances (she married our friend and colleague Kevin Lynch, and now manages not us but her husband and three children). In more recent years our sanity depended on Bob Jenkins (Bob departs as our production manager with this issue, replaced by Frank Costello) and Kathleen Anderson, who left us for the White House (our new managing editor is John P. Fowler). And Ellen Wilson: in addition to writing her brilliant essays, Ellen was our resident editorial mainstay for several years (before becoming Book Editor of the *Wall Street Journal*). Now the endless copy is handled by Margaret Meara, Rosemary Duddy, and Esther Burke. And my brother Ed who, throughout the entire decade, has pitched in to help with the inevitable last-minute read-it-all-again rush.

Here I dare not fail to add more family notes: as the British once impressed our seamen, your servant made able-bodied “volunteers” of his own children. Robert Arthur II was our best type-setter, Maria our best Gal Friday, Patrick our most resourceful jack-of-all-trades, before leaving to begin their own careers. Artist Regina remains aboard; Christina (at 15) awaits her tour of duty.

I have often said that beginning this review amounted to an act of faith; it's survival has depended in large part on my wife Faith, a peerless editor and consultant professionally and, personally, the heart and soul of our constancy.

Nor could we have survived without our legion of friends: literally thousands of people have contributed to the financial support of our “uncommercial” venture, most of them known to us only (but very *well*) by name. Bless them one and all.

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And while it is true that most of our regular contributors are included or mentioned in this issue, scores more authors and writers have contributed material, advice, ideas, moral support, and inspiration for which we are heartily grateful. For instance Walker Percy, our favorite (and America's best, we say) novelist: our tenacious efforts (over dinner, *via* the mails, etc.) to cajole him into "doing a piece" for us have so far produced nothing but his generous friendship, demonstrated most recently by the following message:

Congratulations on your 10th and a long happy life to *The Human Life Review*. Your reasoned non-fanatic, non-sectarian advocacy of the pro-life position is immensely valuable—in my opinion the *Roe v. Wade* decision of the Supreme Court is the most catastrophic since *Dred Scott* and its reversal is by no means as inevitable. All the more reason why *The Human Life Review* should keep up the good fight.

Another generous congratulatory message came from Wm. F. Buckley, Jr.:

There was a brief but scary period during which it appeared that the opposition to abortion would be done in the accents of John Brown, who accomplished nothing much more than his own hanging. Until *The Human Life Review* came along, and careful and sensitive readers knew that there were people out there opposed to elective abortion who could find the language in which to speak to other Americans. That is the challenge, because if respect for life in the womb is to return, Americans will need to listen, and to have hard sessions at the moral sweatshop. *The Human Life Review*, by its excellence, and by its tone, has taken up the cudgels, and made them into words at once patient and firm, into analysis tough and persuasive, in the effort to brew a moral potion strong enough to return life.

In truth, there would be no such review without Bill Buckley's peerless demonstration of what the printed word can do to thwart "inevitable" forces of history. Buckley has, without doubt, provided inspiration to numberless people, but to none more than to us, as mentor, colleague, and, above all, friend.

Friendship is of course a fine art: if this review has been successful, it is due to its having enjoyed friends like Buckley, and Clare Luce, and that other great practitioner of the art, Malcolm Muggeridge, with whom we began this issue and, fittingly, end it. Last Christmas Day he wrote us:

I have a vivid memory of my first acquaintance with *The Human Life Review* some ten years ago. It amazed me by its excellent production, typography, and, above all, the high standard of its contents. With the usual defeatism of journalists, I decided it would not last long unless some accommodating angel came along to keep it going. How wrong I was! Issue by issue, it sustains its high level; has rated an important contribution from President Reagan, and has helped as no other periodical has to keep abortion and kindred monstrosities in the public eye. For myself, I am honoured to have been accepted as an appropriate contributor, and salute the only begetter and sustainer of this great enterprise on its tenth anniversary—Jim McFadden.

For once in his life Muggeridge hasn't got it just right. Oh, we glory in his

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being right about “this great enterprise”—but (again speaking personally) there is another “only begetter and sustainer” of it. Ed Capano, modestly listed all these years as our publisher, has contributed indispensable professional talents exceeded only by his own capacity for never-failing friendship.

Permit me a final dedication. The President’s message to us was, by chance, dated December 19. On that day, 41 years before, Robert Arthur McFadden was killed in action on a bomber raid over Augsburg, Germany, 39 days after his twenty-first birthday. My brother’s name is only one among thousands on gravestones in a vast military cemetery. I record it here in just memoriam: I *know* he would have enjoyed all this: the zest of it, the good friends, the good arguments, the good fight. I believe he *is* enjoying it: such is the eternal value of human life, however brief, which we struggle to restore to its proper place in *this* world.

A handwritten signature in black ink, appearing to read "Robert Arthur McFadden". The signature is fluid and cursive, with a prominent loop at the end.

. . . FROM THE PUBLISHER

Happy Anniversary! With this special double issue we begin our second decade of publishing. It is indeed a special issue—special in many ways. It not only celebrates our anniversary, it also celebrates *our* accomplishments—yours and ours. As Editor Jim McFadden (without whom, by the way, none of this would have happened) so aptly put it in his introduction: “Good writing can win battles, great writing whole wars.” We have won many battles and are on the way to winning the war, *our* war. So again, congratulations all around.

EDWARD A. CAPANO
Publisher

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Subscriptions: the *Human Life Review* accepts regular subscriptions at the rate of \$15 for a full year (four issues). Canadian subscribers and all other foreign please add \$4 (total: \$19 U.S. currency). Please address all subscription orders to the address below and enclose payment with order. You may enter gift subscriptions for friends, libraries, or schools at \$15 each.

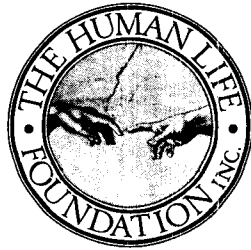
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Bound Volumes: we now have available Bound Volumes (in permanent library-style hardcover editions, with gold lettering, etc.) of the first 10 years (1975-1984) of this review. *All volumes are completely indexed*, and are available post-paid at \$35 per volume, or all nine volumes for \$300.

Special Notice: we also have available copies of “*Abortion and the Conscience of the Nation*” by President Ronald Reagan, which has been published in a hardcover book by Thomas Nelson Publishers. The book includes the complete text of the President’s essay (which first appeared in the Spring, 1983, issue of this review), plus “The Slide to Auschwitz,” by Dr. C. Everett Koop, and “The Humane Holocaust” by Malcolm Muggeridge (both essays also first appeared here). To order send \$7.95 per copy; we will pay all postage and handling. Also available are Ellen Wilson’s *An Even Dozen* (\$10.00); Joseph Sobran’s *Single Issues* (\$12.95); and Prof. John T. Noonan, Jr.’s *A Private Choice* (\$11.95). Finally, *The Human Life Review* is available in microform from both University Microfilm International (300 N. Zeeb Road, Ann Arbor, Michigan 48106) and Bell & Howell (Micro-Photo Division, Old Mansfield Road, Wooster, Ohio 44691).

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