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ABORTION

Part III

RT. REV. MSGR. PAUL V. HARRINGTON, J.C.L.

It is frightening and disillusioning to see the extent to which important and influential medical societies and members of the medical profession are actively engaged in advocating and supporting the liberalization of abortion laws on the national, state and local level. Previous reference was made to the recent attempt of the Board of Trustees of the American Medical Association to influence its Board of Delegates to "take a forthright stand urging more liberal abortion and sterilization laws." The newspaper account stated "the Trustees wanted a doctor to have a legal right to perform an abortion if the pregnancy would gravely impair the physical or mental health of the mother, or if the pregnancy resulted from incest or rape, or to prevent birth of an abnormal infant."¹ The House of Delegates voted against supporting the legalization of abortion and sterilization but indicated that solutions for these problems should be sought by legislative action and reform in each state. This would seem to indicate that the House of Delegates was in favor of legislative and statutory reform but demurred from public and active

support of bills that would be initiated before the individual State Assembly or Legislature.

In 1965, Anthony C. Beilenson, a lawyer and legislator, reintroduced before the State Assembly in California a measure which would bring the law with reference to abortion in that State into conformity with current medical practice. Kummer and Leavy explain that the bill "clearly sets forth the procedures to be followed by physicians and law enforcement officials when therapeutic abortion may be indicated. It provided controls against abuse by requiring approval from hospital committees supervised by the State Department of Public Health, or in some cases from the local district attorney or Superior Court. It permitted only licensed physicians in licensed hospitals to terminate pregnancy, whereas most abortion statutes lack these important restrictions."² This bill, after several years of study, was reported out of the Criminal Procedures Committee but was allowed to die in the Ways and Means Committee and never reached the floor of the Lower House.

What is important and worth noting about this particular bill is the support it received from the medical profession while it was pending before the Assembly. Kummer and Leavy report "the bill received official support from the California Medical Association, the major state obstetrical and gynecological soci-

Monsignor Harrington is Vice-Officialis for the Archdiocese of Boston. The first part of this discourse appeared in *LQ*, November 1965, and the second portion in the issue of February 1966.

¹ *Boston Traveler*, December 2, 1965.

² Jerome M. Kummer, M.D. and Zad Leavy, L.L.B., *Therapeutic Abortion Law Confusion*, *JAMA*, January 10, 1966, Vol. 195, No. 2, p. 99.

eties, the State Department of Public Health, and various other groups and individuals, including deans of the various medical schools and departmental chairman in public health, obstetrics-gynecology, and pediatrics at these same schools."

Keith P. Russell, M.D., an obstetrician and Chairman of the California Medical Association's Committee on Maternal and Child Care, stated that the present state law in California is "in conflict with prevailing knowledge, technology and ethical concepts and attitudes in medicine" and "the individual physician is in the untenable position of either violating the law when abortion is properly indicated or abandoning his patient in her greatest need either to the harmful consequences of a contra-indicated pregnancy or to the dangers of a criminal abortion."³ Doctor Russell, in his support for the "Humane Abortion Act," introduced by Assemblyman Anthony C. Beilenson, forwarded signed letters to more than 2000 board-accredited obstetricians, pediatricians, psychiatrists, clergymen and social workers, seeking a sympathetic hearing.

It is interesting to note that, despite the very substantial support which the Beilenson bill received from the medical societies and the medical professionals in the State of California, it was not favorably received by the committee on Ways and Means and was not released for discussion and vote by the General Assembly. Could the reason be that there are valid arguments against the general legalization of abortion

and the liberalization of existing abortion statutes, which were not considered or influenced by the medical profession at the time the legislation was being considered? Is it not possible that these valid arguments are, in fact, more basic, more fundamental and, thus, more important than the arguments of expediency used by the medical societies in their endorsement and support of the legislation? If so, it behooves the medical profession to consider, study, analyze and evaluate these arguments so that its ultimate position on abortion will be honest, sincere, objective and responsible.

It was reported in the *Medical Tribune* on December 30, 1964 that the New York Academy of Medicine had proposed that the existing law of the State of New York, be changed and amended so that the Penal Code would recognize the health of the mother and child as indications, which would allow therapeutic abortions to be performed.

When one considers the outstanding record and history of the medical profession, in its dedication and commitment to the preservation of good health and the prolonging of life, it is discouraging and alarming to think about the results of a recent survey.⁴ The faculty members at ten medical schools recently sponsored a survey of the obstetricians and gynecologists, registered and licensed for practice in the State of New York. The results were made known at a meeting in New York of the newly organized *National Association for Humane Abortion*. Questionnaires, concerning abortion, were sent to 2285 obstetricians-gyne-

ologists; 1413 replied. This is a 62 per cent response. Some 85.4 per cent (or approximately 1200) indicated that they favored a change in the existing law on abortions. Thus, 1200 obstetricians-gynecologists in the State of New York (about 54.4 per cent of the total number contacted) are in favor of terminating a suffering out life in a newly-conceived person. This is frightening. The history of positive medical progress and scientific advance of the past with reference to the maintenance of higher health standards and the prolongation of life is apparently giving way to destruction and annihilation of life. Where life was respected, protected, and prolonged wherever and however it was found, now there is an increasing interest in its destruction under circumstances outlined by the proponents of legalized abortion!

The medical profession and the individual practitioner might reply that, with reference to abortion, only intra-uterine life is being considered.

Legalizing extensive abortion is only the beginning and the gateway to widespread euthanasia. If the doctor places no value on conceived but unborn life, has no respect for it, considers it of lesser value than the life of its mother, then what value will he assess on the life of the elderly, the indigent person, the senile, the invalid, the physically handicapped, the mentally-retarded? If he is to be consistent and logical, he must say that, if intra-uterine life can be disposed of by legislative enactment, why cannot the seemingly worthless life of the handicapped, the underprivileged, the chronically-ill be destroyed also for

utilitarian reasons and mandates of expediency? If mere social or economic reasons will allow for abortion under the statutes, being currently studied and proposed, why can't the life of the ill and the aged be destroyed on the grounds that such persons make no positive contribution to society and are claimants of the generosity of society by welfare payments and other costly fringe benefits. The medical profession as a whole and the individual practitioner would be inconsistent and illogical if they were to say they favor, under given circumstances, the extinguishing of unborn life but they hold the life of a child or adult to be sacred and something to be preserved, maintained and protected. On what basis and in accordance with what norm or criterion could they favor the extinguishing of the former and the protection of the latter?

If the day ever comes when the statute of any State empowers an individual, a practitioner or a professional society to decide that an innocent, defenseless unborn infant is expendable and his life can be terminated, then respect for life in general has been lost and the life of no living person is safe or secure because another statute can always be passed, empowering the State or one of its sub-divisions to decree, again on grounds of expediency, the death of one of its citizens or a class or group of citizens. Such a statute would give to the civil government a right which it does not and should not have. A State can only decree or allow the death of a citizen when a capital crime has been committed and the culprit has been apprehended, given the opportunity of defending himself in a fair and just trial and found guilty beyond a reasonable doubt by a jury of his peers. The State must not be given any further right over life and death, even though the right refers to allowance or toleration through legislation and the life refers to the yet unborn.

³ *AMA News*, June 7, 1965.

⁴ *Medical Tribune*, May 1-2, 1965.

If, for no other reason than these far-reaching implications, the medical profession must seriously study the impact of its favoring the legalizing of abortion on a large scale and the liberalization of the existing statutes as they relate to abortion. A recent editorial sums up this particular aspect of the question thusly: "When that day comes (when a large section of the American people want and receive broader grounds for abortion written into the law), our society will then move on to the next topic of discussion and debate. We venture to predict that it will be the morality of quietly and painlessly killing infants who are born badly deformed. There is a difference, of course, between abortion and euthanasia. But it is not enough of a difference — and above all, it will not be felt by the bulk of the population as a meaningful enough difference — to be an effective barrier to 'liberalization' of the laws on homicide. The 'sliding scale' morality that modern society is making its own will bear many strange fruits before we are through with it, and some of them will be monstrous."⁵

A national survey, in which 1300 physicians were contacted, reveals that, of those who replied; (and the number of replies is not indicated) 60 per cent stated that the current and existing laws, relating to abortion, should be overhauled, changed and amended, and more than 50 per cent of those who replied suggested

that abortion should be permitted for social and economic reasons as well as for medical indications.⁶

Robert A. Ambrough, Jr., M.D., Director of the American College of Obstetrics and Gynecologists, has disclosed that, in its new manual of standards for obstetric-gynecologic practice, provision is made so that "after consultation with at least two specialists in the field of the indications present, therapeutic abortions may be performed when they are requested by both the husband and the wife."⁷

In a forum sponsored by students of the University of Southern California School of Medicine, Doctor Allan Guttmacher, noting that illegal abortion is the second leading cause of maternal death in the United States, stressed the fact that existing statutes should be revised and six additional indications for abortion should be included — "probable defects in the child due to heredity or maternal illness during pregnancy, narcotic or alcohol addiction in the woman, pregnancy resulting from sex crimes or incest, pregnancy in married girls under 18, and consideration of the family's ability to support and care for another child."⁸ Guttmacher stated that an "evolutionary rather than a revolutionary" approach to the problem of abortion is necessary.

During the floor discussion at the recent White House Conference on Health, Doctor Guttmacher, "recommended that the United States examine the mass abortion programs of Japan and the Iron Curtain countries as models for making abortion easier here."⁹

Robert E. Hall, M.D., Assistant Clinical Professor of Obstetrics and Gynecology, Columbia University College of Physicians and Surgeons, is of the belief that the entire issue of the control of births is exclusively a medical matter and that state laws should now be changed "to permit the indications for abortion which accepted medical practice has already legitimized."¹⁰ Doctor Hall's only concern in the matter is not the morality or immorality of abortion but rather the fact that he found the incidence of therapeutic abortions "strikingly higher" on the private services than on the ward services and that abortions are performed on private patients for "more debatable indications" than is the case with ward patients.¹¹

Typical of the thinking of many physicians are the reflections and observations set down by Seymour B. Bronstein, M.D., of Summit, New Jersey, in a letter to the editor of the *Journal of the American Medical Association*. Having congratulated the Association on the formation of a Committee on Human Reproduction, he expressed the wish and the hope that this committee would give consideration to the problem of abortion. His principal preoccupation is the maternal mortality involved in illegal abortions and he complains that "the phenomenal preoccupation over the safety of our astronauts compared with the complete

neglect for the deaths of hundreds of women represents a paradox in our society and a dichotomy in our thinking."¹² This comparison between the safety program for astronauts and for mothers does not strike this writer as appropriate, correct or convincing since it is not necessary to kill anyone or extinguish the life of anyone in order to protect the life of the astronaut. Doctor Bronstein seems to have lost his perspective when he states "abortion is a personal medical problem with which only the physician and his patient have a right to deal."¹³ Apparently, the husband has already lost his right to be considered or to be heard. Society, the common good and the public welfare have likewise been disenfranchised and evidently are thought to have no interest and no right in the eventual decision and its execution. Obviously, God is completely ignored. The physician and his client are sole arbiters as witness the final conclusion: "She alone, with her physician's counsel, should have the right to determine whether to continue the pregnancy and to assume the responsibility of raising her offspring."¹⁴ Doctor Bronstein, in his peroration, apodictically states: "The AMA should support a comprehensive study aimed at analysis and revision of abortion statutes in every state. These statutes need alignment with concepts of health, medicine, and sociological standards of our times."¹⁵ Here again is pronounced the overriding excellence and importance of science.

Jerome M. Kummer, M.D., has written many articles on the general

⁵ *America*, February 12, 1966.

⁶ *Medical Tribune*, May 1-2, 1965.

⁷ *Medical Tribune*, May 1-2, 1965.

⁸ *Medical Tribune* — World Wide Report.

⁹ NCWC report, *Boston Pilot*, November 13, 1965.

¹⁰ *Medical Tribune*, May 1-2, 1965.

¹¹ *Ibidem*.

¹² *JAMA*, August 9, 1965.

¹³ *Ibidem*.

¹⁴ *Ibidem*.

¹⁵ *Ibidem*.

subject of abortion.¹⁶ In some articles, he appears as the sole author and in others, he collaborated with Zad Leavy, a former Deputy District Attorney, Los Angeles County, California. In their most recent article on this subject, Kummer and Leavy consider: 1) the incidence of illegal abortion in the United States with consequent maternal mortality; 2) the incidence of abortion in relation to race, education, marriage and the number of live births; 3) the frequency of the violation of existing statutes by physicians; 4) the protection of the mother as the prime concern of the Courts in its judicial interpretations; 5) the experiments in abortion by Sweden and Japan; and 6) the fate of the Beilenson bill before the California Assembly.¹⁷ Of course, the plea is for the legalization of abortion and for the liberalization of existing statutes so that, if a woman wishes to terminate a pregnancy, she may do so legally and under proper medical and sur-

gical supervision. They conclude that statutory changes will drastically curtail the number of illegal abortions and protect against maternal death. Obviously, if society legalizes abortion, there is bound to be less criminal activity in that area, but this brings very little consolation and assurance.

If one wishes to see a complete abandonment and rejection of all principles, criteria and norms for moral living and the adoption of mere expediency and utilitarianism as the basis of human living, consider the statement of Kummer and Leavy: "The forces in our society opposing abortion are well known and most obvious. What is also obvious is that these social forces have not accomplished their stated goals, namely, maintaining morality and preventing abortion, injury and death. Instead, we are confronted with a sea of heartache and confusion and the tragic wastage of more than 5000 deaths per year, mostly mothers of young children, women we can least afford to lose. Is it not time that we took a long, hard, critical look at these forces in an effort to determine if indeed they are in the best interests of the individual and society?"¹⁸

The above references are not intended to be complete or exhaustive but only typical. There are many other medical articles which could be mentioned to demonstrate the tremendous involvement of the medical profession, both societies and individual practitioners, in the advocacy of statutory changes in existing abortion laws and in the active support of pending legislation.

In perusing the recent medical literature, one finds very little evidence of opposition on the part of the medical professionals to the rising clamor and demand for reform in our present law. Thus, it is refreshing to meet up with the letter of Roy J. Heffernan, M.D., of Boston, Massachusetts, which was directed to the editor of the *Journal of the American Medical Association*. Doctor Heffernan has long been a vigorous opponent of any theory or position, which robbed God of His Power over life and death and which called for the extinguishing of the life of an unborn child, merely on the basis of reasons considered valid by medical colleagues or men of science. With reference to suggested abortions for psychiatric indications, Doctor Heffernan stated very forthrightly: "Abortions may be the 'easy way out' but it would be more desirable, ethically and scientifically, to treat the psychogenic complication by any modern method."¹⁹

In reading the current medical literature, one is quickly aware of a definite change in the meaning of words and phrases. Originally, a therapeutic abortion referred to the intended and voluntary termination of life in a fetus because continuation to term would jeopardize the life of the mother. Criminal abortion referred to the death of a fetus effected for any other reason. Now, medical professionals wish the legal right to abort when given situations, while not jeopardizing the life of the mother, might affect her health adversely in their estimation. The effect on health would not necessarily

¹⁹ *JAMA*, August 23, 1965, Vol. 193, No. 8.

arise from physical, organic or medical causes alone but could be the result of psychogenic complications and even socio-economic factors or the all-inclusive, ever-present, undefinable "worn-out mother syndrome." Danger of the birth of a mal-formed infant and the problem of population explosion should also be acceptable reasons for justifying an abortion, according to the proponents of reform.

The doctors would now group all of these situations and indications under the term *therapeutic abortion* and would leave any other bases (if, in fact, any remain) under the classification of criminal abortion. However, one finds it very difficult to understand how possible malformation in an infant, social and economic considerations and population explosion, none of which has any reference to the health of the mother, can qualify for inclusion under the term *therapeutic*.

The insistent interest on the part of many physicians, who openly advocate and support the liberalization of existing abortion statutes, would give the impression that they wish to rid themselves of guilt feelings which have built up over the years of violating the law and performing abortions, not sanctioned by present laws, under secretive circumstances. Maybe, they feel that these guilt feelings would disappear and a certain aura of respectability would ensue, if the mantle and cloak of legality could be placed around abortions.

One of the major arguments of the proponents of liberalization is that over one million illegal abor-

¹⁶ To refer to a few: *Criminal Abortion: A consideration of Ways to Reduce Incidence*, Calif. Med. 95:170-175 (Sept.) 1961; *The Problems of Abortion: The Personal Population Explosion*, World Academy of Art and Science, publication 2, The Hague: W. Junk, Publisher, 1963; *Post-Abortion Psychiatric Illness — a Myth?* American Journal of Psychiatry 119:980-983 (April) 1963; *Psychiatric Contraindications to Pregnancy With Reference to Therapeutic Abortion and Sterilization*, Calif. Med. 79:31-35 (July) 1953; *Therapeutic Abortion Law Confusion*, JAMA, Jan. 10, 1966, Vol. 195, No. 2; *Criminal Abortion: A Failure of Law*, 50 A.B.A.J. 52 (1964); *Criminal Abortion: Human Hardship and Unyielding Laws*, 35 So. Cal. L. Rev., 123, 126 (1962).

¹⁷ *Therapeutic Abortion Law Confusion*, JAMA, Jan. 10, 1966, Vol. 195, No. 2.

¹⁸ *Ibidem*.

tions take place each year in these United States with five thousand or more maternal deaths. They state that since abortions are so widespread, we should change the existing laws so that the law will conform to the actions. Abortions then can take place out in the open under proper medical and surgical conditions in our hospitals and thus prevent the deaths of these women. Conformity of the law with the present situation is their main concern. Expecting the law to conform to the practice is the complete opposite and reverse of the normal and the usual.

When one speaks of "illegal abortions," reference is made to one of two types: either an abortion is done in a hospital under proper medical and surgical supervision by a physician in circumstances or for reasons not allowed by the existing statutory regulations, or it is performed quietly and secretly usually by non-qualified persons without proper safeguards for the health and life of the woman. Strangely enough, the latter category is the only one which is criticized by the advocates of legal abortion and criticized not because it is performed in violation of the law, but rather because of the danger of infection and possible death. No medical professional criticizes his medical colleague for violating a serious and important law when he performs an abortion in a hospital or clinic but in violation of the law; instead he advises and invites him to continue to violate the law.

It must be recalled that, since we are dealing with a crime and something which is illegal, we cannot expect accurate or meaningful sta-

tistics. All sources agree that there are in excess of a million illegal abortions each year in these United States. How many of these are performed in hospitals by physicians in violation of the law? How many of these are performed secretly by non-qualified persons? We do not have the statistics that would provide these answers. However, the indication is that very few physicians specialize in illegal abortions and probably not many more even perform abortions.

Let us speculate and, in the absence of accurate statistics, speculation is allowed. Let us suppose that one hundred thousand illegal abortions each year are performed by physicians in hospitals; that would mean that nine hundred thousand are performed by non-qualified persons. If this is nearly accurate, it is amazing that there are not more than five thousand deaths.

What disturbs the present writer about illegal abortions performed by qualified physicians is the fact that there is no concern by the advocates of legalized abortion about the question of illegality; the fact that such are violations of a serious law, which has, as its goal and objective, the achievement of the common good and the promotion of the public welfare. There is apparently no consciousness of the seriousness of the breach, no awareness of the breakdown in public morality, and no concern for the bad example which they are giving or for the scandal, which their actions cause.

Medicine has always been a respected profession. Physicians have always enjoyed a fine reputation in

the community as citizens. People always have looked up to them, have trusted them implicitly and have sought from them advice, guidance and direction. The least the individual person or the community has a right to expect from a physician is that he respect the law. And yet, a nation-wide television program brings us face to face with physicians who forthrightly state that they would not hesitate to perform an abortion in violation of the law if their medical judgment indicated that it was useful or necessary and some openly declared that they have performed abortions, under such circumstances repeatedly in their medical career. There is only one conclusion: there are among those supporting legalization of abortion some doctors who have strayed so far from the ideals of their profession and so separated themselves from their responsibilities as citizens and deteriorated so far with reference to their moral lives that they would openly encourage and entice their medical colleagues to turn criminal, to violate the law, to corrupt the public morals. To substantiate these findings, a lengthy quote from the most recent article by Kummer and Leavy is included. Keep in mind, this is a member of the medical profession speaking—not an outsider standing in judgment on the medical profession.

Abortion, with its omnipresence and in spite of all taboos, is curiously tolerated to a very appreciable degree. Although criminal abortion is labeled a felony, the women who have undergone this procedure are almost never prosecuted, and for professional abortionists, the rate of prosecution is very low and the rate of conviction even lower; and when convicted, the punishment tends to be a relative 'slap on the wrist.'

It is apparent that morals, religion, and the common law offer little restraint when it comes to abortion, leading Taussig to remark that he knew 'of no other instance in history in which there has been such frank and universal disregard for criminal law.'

The medical profession reflects the taboos of our society. While very few physicians are believed to be engaged in the performance of illegal abortions, a good many refer patients to abortionists indirectly, and some directly, even in writing.

... More than 90% of the therapeutic abortions done at Mount Sinai Hospital in New York City did not fall strictly within statutory requirements 'to preserve the life of the mother.' Hospital authorities and physicians vary widely in their interpretation of the laws and their willingness to place themselves in jeopardy of prosecution. It is an accepted fact that pregnancies are terminated by reputable physicians in licensed hospitals for reasons other than to preserve the life of the mother, e.g., on health, humanitarian, and eugenic grounds, and thus in open violation of the law. But if these interruptions are performed with concurring written opinions of other physicians and with approval of the hospital's therapeutic abortion committee, there is no trouble from law enforcement officials. We have found no recorded prosecution under such circumstances.

The fact that this is accepted medical practice is borne out by the findings of a Stanford Law School survey, which showed that three quarters of the reporting California hospitals would allow induced abortion under circumstances tantamount to violation of that state's prohibitory statute. Furthermore, at a legislative hearing in California, where testimony was heard on a bill which would cautiously broaden the exceptions . . . nearly every doctor who testified stated that such a law would only legalize what is now practiced in most non-Catholic hospitals.²⁰

From this quotation, can any one derive any conclusion except "there is only one thing to fear and that

²⁰JAMA, January 10, 1966, Vol. 195, No. 2.

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is fear itself" — the fear of "getting caught?" Is this not an open invitation and inducement by a doctor to his medical colleagues to flaunt the law, to flagrantly violate the law but not to "get caught"? Is there any wonder that Doctor Guttmacher would exclaim: "That the abortion laws in the United States make hypocrites of all of us."²¹ Or maybe it would be more correct and accurate if the statement read "Physician abortionists make a farce of the law."

The New York Academy of Medicine has stated: "An examination of existing practices in New York City reveals that reputable staff physicians in reputable hospitals have been performing therapeutic abortions when the health of the mother or child is involved, as well as to preserve the life of the mother." It was conceded that while practice often does not conform to the letter of the law, police authorities have not interfered.²²

Keith P. Russell, M.D., Chairman of the California Medical Association's Committee on Maternal and Child Care, revealed that a "recent survey made by Sloane Hospital for Women, an affiliate of the Columbia University, New York City, showed that therapeutic abortions for German measles have been performed at two Los Angeles hospitals and at three San Francisco hospitals. Such abortions have been performed in two other Los Angeles hospitals not named in the Sloane Hospital study. Other reputable hospitals in

the Los Angeles area have been known to have done therapeutic abortions for more than German measles. It is estimated that each of the hospitals averaged between three and ten such operations a year."²³

By reason of the above evidence of open violation of the law and invitation to violate the law, it appears necessary to remind certain segments of the medical profession that they do not constitute a special group with a privileged endowment, that exempts them from complying with the law.

Organized medicine has the right to make its scientific and professional views known to any legislative or public committee, but it cannot superimpose or force its opinions and demand that its views become law. It gives testimony on at least an implicit basis that it will accept the ultimate decision of the legislative assembly and abide by the statutory enactment. If the final decision of the Legislature does not conform with the opinions and suggestions rendered by the medical profession, then this must be an issue where the private interest of medicine does not contribute to the commonweal and it might be that the common good is actually compromised and injured. Certainly, in the matter of abortion, the common good and public welfare is not served by the annihilation and the murder of its future citizens — especially at the rate of one million a year.

Those physicians, who advocate and support a liberalization of existing abortion laws, base the entirety of their claim and argument on the stress situations — or indications —

which prompt an expectant mother to decide on abortion and on the fact that, because of illegal criminal abortions, approximately five thousand women die each year. Thus, they conclude that any woman who decides to terminate her pregnancy before term should have the right to register at an accredited hospital and have all the benefits of modern medical science and surgical technique placed at her disposal in order to guarantee the effectiveness of the abortion and assure her the maximum in safety. It is unfortunate that these physicians have addressed themselves to the wrong issues. They have directed all of their attention to proving that the stress situations are valid reasons for the termination of an unwanted pregnancy and that the indications, (medical, psychiatric, social or economic) are sufficient to justify medical or surgical intervention in the pregnancy. They are concerned only as to whether the abortion will be legal or illegal; whether it will be performed under proper medical conditions or under crude non-professional auspices; whether all expectant mothers will survive the abortion or whether some will die.

Each of these matters has a certain importance but other considerations are far more important, basic and fundamental. These bear upon: 1) the right of the mother to terminate her pregnancy; 2) the question of depriving the conceptus of the life it has just received; 3) the denial to the fetus of the right to be born; 4) the cooperation of the physician with the mother, intending to secure an abortion. If the mother does not have the right to

intervene and kill her infant, then the indications that would appear to warrant such intervention lose all validity. Thus, the physicians, interested in legalizing abortion, who, purposely or otherwise, omit from their discussions any reference to the right of the mother to terminate the pregnancy present a position that is less than honest, that does not go to the heart of the issues, that does not give an objective view of the entire problem. Therefore, their conclusions lack validity.

The right to respect innocent human life and the duty to refrain from terminating innocent human life is far more basic, fundamental and important a consideration than mere inconvenience, threat to maternal life or jeopardy of maternal health! If there is a conflict between the two, as there is in all cases of contemplated abortion, that which is more basic and fundamental must prevail. We who oppose liberalization of abortion laws, establish our position on the stable, sound and secure foundation of principle and right and not on the moving sands of mere sentiment and emotion.

The temptation that must be resisted is to compare life on various levels or between persons and make a judgment that one life is more important, more valuable, more useful, more necessary than another and, therefore, the one is to be preferred and the other is to be neglected or one is to be protected and the other is to be sacrificed.

As far as the life-aspect is concerned and as far as life, as it comes from the creative Hand of God, is concerned, each life is equal to every other and no one is to be preferred

²¹ Guttmacher, A. F.: *The Law That Doctors Often Break*, Redbook Magazine 113:24 (August) 1959.

²² *Medical Tribune*, May 1-2, 1965.

²³ *The AMA News*, June 7, 1965.

or considered more important than another. We can make no valid distinction between that person who is already born and established in life and the newly-conceived but yet unborn infant; between a white person and a negro; between the healthy and the sickly; between the person with economic and social status and the deprived; between the educated and the unlettered; between the strong and the handicapped; between the person of position and the underprivileged. Every life is important, valuable, necessary and useful, each in its own way; no life is expendable; no life must be threatened or destroyed. The beginning and the ending of life is within the province of the Creator and Him alone.

Hard as this is to say, the woman herself, who dies as a result of abortion, is solely responsible for her own death. It is dishonest, unfair, untrue and unjust to place the blame on the medical profession, who were not allowed to give her better care, or on society or existing laws or on those who oppose any change in the existing statutes. Father McCormick has stated it well when he said: "We need reminders that our only concern dare not be for the transfer of the execution chamber to more aseptic conditions."²⁴

Also, the proponents of legalization of abortion, give all of their concern to the expectant mother to the complete exclusion of the child she carries within her. It is the health, welfare and life of the mother which occupies their complete inter-

est and sympathy and, if there is any indifference, neglect, apathy or callousness in the whole area, it is on the part of those who do not even mention the rights or the privileges of the conceptus and who have no thought for the welfare of the fetus.

The opposition makes much of the five thousand mothers who die each year as the result of abortion but they make no mention of the one million infants who are annihilated and murdered. There is something out of perspective and balance when there is total concern for the five thousand mothers who die, by reason of their own decision, and absolutely no concern for the one million babies who are killed without any prior consultation or consent on their part. The deaths of the mothers are accidental; the deaths of the children are intentional.

Let us not forget and let us constantly remind ourselves that the incidence of infant mortality in abortions is very high — one hundred percent!

If hospitals were to be opened for abortions and if best medical and surgical supervision were to be provided, the best we could do and the most we could hope for would be to save five thousand lives (if we can assume that there would be no fatalities under proper medical and surgical supervision). This would be an important accomplishment, to be sure. We would still have one million infant deaths or more if we consider that there would definitely be more abortions each year if the existing laws were to be liberalized. Is this a fair exchange for a compromise of principles and an open endorsement for murder, which

would eventuate if abortion were to be legalized? What traitors we would be to the innocent babies, who are too weak to defend themselves and their rights! What advantage we would be taking of those who could not safeguard their right to live!

Since responsible medical testimony has indicated that pregnancy carries very little, if any, threat to the prospective mother, regardless of her condition of physical or mental health, if she were to allow the pregnancy to continue to term without interruption she could avail herself of the best that medical science can offer during the pre-natal period and at the time of delivery. In this way, she could safeguard her own health and life and there would be five thousand less maternal deaths and one million fewer fetal fatalities each year as a result of criminal abortions.

If, for some reason — health, temperament, economic, etc. — the mother could not keep her child, she, married or single, could place the infant for adoption. This would appear to be a more positive, constructive and responsible solution to the vexing problem — far more responsible than legalizing the killing of one million infants in order to save the lives of five thousand mothers.

As the present writer was surveying the medical literature on abortions, he was shocked to find that not even one writer directed his attention, mentioned or even hinted at the very important issue as to whether or not an expectant mother has the right to consider abortion as

the solution to her problem since the killing of human life is involved, or whether a physician, acting on behalf of the woman, has the right to surgically intervene and terminate the life of the fetus, for the same reason! One wonders why they omit any reference to the question of the presence or absence of human life. Do they deny that human life is present at the moment of conception? If so, can they prove their claim? Or, do they assert that they have the right to terminate that life, even if a living human person is present? Is it because they are unaware that this question is involved? It doesn't seem so because the opponents of liberalizing the statutes have in public statements and position papers repeatedly, openly and frequently questioned the right to abort and all of this material is available to the members of the medical profession, who are now writing on this subject. Could it be that their position is the same or like that of Mrs. Sherri Finkbine of "thalidomide fame." At a recent meeting of the Society for Humane Abortion in San Francisco, she said: "I was asked by newspapermen at the time, does the fetus have a soul? I had never thought of it."²⁵ Is it because they recognize that the question of right to life of the unborn is a crucial issue in this discussion and that they do not have answers or replies for the difficulties and objections that have been proposed and thus they just omit any reference to the matter?

The present writer would appreciate it if the members of the medical profession, who advocate and

²⁴ Rev. Richard A. McCormick, S.J., *Abortion, America*, June 19, 1965.

²⁵ NCWC Report, *Boston Pilot*, February 5, 1966.

support a liberalization of the existing laws, would now direct their attention to their right to intervene medically and surgically and terminate a newly-conceived life and prove, if they can, that a human person is not present and that a human person is not being deprived of life. If a woman has a right to seek an abortion and if a doctor has the right to cooperate, let them present their credentials and their arguments — arguments, not merely referring to the indications or reasons that would seem to justify an abortion — but arguments with respect to their right to possibly terminate the life of an innocent, defenseless child. Since they have not established that human life is not present and since they have not proved their right to intervene, apparently they are operating on the presumption that human life does not exist and on the presumption that they have the right to intervene. The question at issue, basic to the right of intervening, is *what is the status of a fetus recently conceived?* Is it just a mass of protoplasm or is it a human being? If the former, termination, at the most, would be the ending of a life of a "would-be-person"; if the latter, abortion would be the actual annihilation of life in a human being or person, who, even in the earliest stages of growth and development, would have a right to live and a right to be born.

Saving a more thorough and detailed discussion of this matter to a subsequent article, suffice it to say here that the implantation of a soul into a conceptus, whereby a human being or person begins to exist, is

a creative act of God and the time at which it takes place cannot be accurately determined. We, who oppose abortion, cannot prove conclusively that the implantation takes place at the very moment of conception; those who advocate and support abortion cannot establish definitively that it does not take place at the moment of conception. Christian tradition, recognizing that human life is most important and has rights which must be acknowledged and respected, has adopted a practical solution, whereby, in its attitude and actions towards the unborn, it will always consider that the fetus is a human person from the very moment of conception. Serious objection cannot be lodged against this solution since, in dealing with an entity as important and valuable as human life, the safest course must be followed.

One of the major arguments of those who seek the abolition of the death penalty in capital crimes is the danger that an innocent person might be convicted of a crime he never committed and, by reason of his conviction, be put to death unjustly. Thus, they argue that the safest course be adopted and followed — abolish the death penalty, so that it will not be possible to make any serious error, which, once made, is irreversible, whereby an innocent person could be unjustly deprived of his most cherished possession — life itself. The abolitionists realize the value of even one human life and do not wish society to deprive unjustly even one citizen of his right to life.

This argument has equal application in the present discussion. Since there is doubt as to exactly when a soul is implanted and a human person begins to exist, then all danger of possibly depriving a person of life, to which he has a right, must be removed by considering that life is present from the very moment of conception. In this way, the right to life and the sanctity of life will be recognized and respected!

It remains, therefore, that unless and until a physician can establish and prove with that certainty that removes all reasonable doubt that a human person is not present at the moment of conception, he must scrupulously abstain from terminating a pregnancy, lest, by intervening, he might deprive an already living human person of the right to live and the right to be born and such deprivation can truthfully, honestly and realistically be called by only one word — murder.

Even medical science is of the opinion that a human person is present from the very moment of conception. The question "what does science teach today about the humanity of the fetus?" was proposed to Herbert Ratner, M.D., a physician and Public Health Director of Oak Park, Illinois, and he replied: "Modern science regards the embryo as a human being from the moment that the male spermatozoa fertilizes the female ovum to form a 'Zygote'." Fertilization produces a new life. . . . The new embryonic life is an inde-

pendent, functioning organism. . . . We have also rejected the theory that the embryo passes through a subhuman stage in the womb. From the moment of zygote formation, the characteristics of a highly individualized human organism are established by the intermixture and combination of the genes, chromosomes and cytoplasm contributed by the parental human egg and sperm. . . . This new, individualized, human life starts to grow immediately, and after several days, begins to implant itself in the womb. The implantation process is not significant vis-a-vis the embryo's humanity. A bird, in or out of the nest, is still a bird."²⁶

Having established that the safer course requires that we consider a newly-conceived fetus as a human person, the responsibility is incumbent on everyone, the expectant mother and doctor included, whatever be the circumstances or conditions, to do nothing that would interfere with the growth, development and maturation of the fetus, not to intervene in any way in which that life might be threatened or terminated, not to compromise the right to life or the right to be born.

Abortion can be nothing less than unjustly depriving an innocent, defenseless child of his right to the cherished possession of life; abortion is nothing less than murder!

²⁶ Robert M. Byrn, *The Abortion Question: A Nonsectarian Approach*, *Catholic Lawyer*, Vol. II, No. 4 (Autumn) 1965, pp. 317-18.