# ABORTION
## INTRODUCTION

By MR. E. D. LLOYD, Q.C.

## MEDICO-LEGAL ASPECTS OF ABORTION IN VICTORIA

By PROFESSOR. W. A. W. WALTERS

## ABORTION: THE HIPPOCRATIC TRADITION

By DR. J. J. BILLINGS

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MR. E. D. LLOYD, Q.C.

I have been asked to do two things, this evening. Firstly, to bounce the ball, as it were and then to step adroitly aside, and secondly, to define what "abortion" is. This latter request apparently is made to me because at a recent meeting of this Society, which was devoted to the subject of male vasectomy, it was clear even at the very end of the papers that most lawyers did not know what vasectomy was. Most of them seemed to think that it involved a process of castration.

There is a fairly clearly understood medical meaning of the term, and there is, at least in Victoria, a fairly clearly understood definition of what is actually comprised and what constitutes an infringement of the provisions of the Victorian Crimes Act. The two notions differ in material respects, and I thought that some endeavour to produce a synthesis of them would only be confusing, so I have abandoned the second thing that I was asked to do. I thought it might be worthwhile, by way of brief preliminary, to make some mention of the previous reference to this topic in the history of this Society, but by way of further preliminary to say this.

A gynaecologist has told me that the number of legal abortions, by what he meant terminations of pregnancy, carried out in public hospitals on recognized medical indications throughout Australia in the year 1968 was seven hundred. That in the State of South Australia alone, since the amendment to the criminal provisions of that State, the figure was in one year

2,000. Even more strikingly illustrative of the dimensions of the problem is the further information I was given that in the State of New York, which is assumed to have abortion on demand, the number of abortions, it is thought, last year was 100,000, and that if one projects those figures, having regard to the number of live births in that State, then at least a possibility is that if all the restrictions on abortion were removed, the number of abortions—certainly as the doctors understand it—would in a western society equal the number of live births. Whether those figures are or are not accurate, they are certainly more likely to be more accurate than what is now in this State something that can only be guessed at, which is the incidence in our society of abortions. It must on any view be a very large incidence, a very commonly occurring event, and it is remarkable what paucity there is of decisions touching principle which have been made in the courts of this State. I had not looked at the matter thoroughly, but my own instinct would be that in this century the number of authoritative pronouncements about the question of abortion, that is to say, pronouncements which purport to represent questions of principle, could be counted on the fingers, probably of one hand, and certainly on the fingers of two hands, whereas if one looks at the number of pronouncements of what would really seem to be a question of minor social importance, such as the Stamp Duties Act, they are of a very much larger number. It may very well be that that reflects the fact that the actual practice of abortion is carried on, as it were, not merely clandestinely, but with, in some sort of way, the assent of society that it should be so carried on, and it may well be that the reasons for that are not far to seek. In the first volume of the proceedings of this Society, there is printed a paper by Dr. Brown which, read even now, is a moving description of the problems which confront a person in general practice or in gynaecological practice, when asked by people who are desperate for something to be done to solve what to them seem to be problems that loom piteously large. I do not think that in his search for guidance from members of the Society he got a great deal of assistance, but he did attract what seems to me to be a passage which is as relevant today as it then was. The late Sir John Barry, in commenting on that paper, as early as 1931, having dealt briefly with a theological view in relation to abortion, put it on one side, and then said this: "There are other considerations involved in the theological attitude but those stated seem to be the most

relevant to the discussion. Obviously if theological premises are sound, the attitude is right. At any rate, it is the view of the Churches, and before any real alteration in the present position can take place, there must be an alteration in that view. Apart from theological considerations, the solution of the problem may lie in the answer to the questions, Has the unborn child a right to live? Has an embryo any right as an individual? Once it is granted that it has, then abortion is wrong. Whether the reason be the health of the mother or economic necessity is only a matter of degree. Any departure from the principle, on whatever ground, throws the whole principle overboard."

Now, I have said that it seems to me that his statement of the problem is as valid and as challenging today as it then was, and I must confess that the specific questions which lie at the heart of the problem, "Has the unborn child the right to live? Has an embryo any right as an individual?", is a problem to which the law has not attempted a compendious answer. The law recognizes that, in some circumstances, the unborn child has a right which should be enforced or upheld, but no compendious answer has been given by the law to those two comparatively simple questions.

Many members of the Society will recall that Sir John Barry later on went on to address a Paper himself to the Society on "The History of Abortion and the Law", and that was a Paper which, even today, reads impressively, and has recently been quoted, with a sense of indebtedness, by the Supreme Court of this State in the course of resolving a problem before it.

I might trouble you by reading one of the later passages of that Paper, on the law of therapeutic abortion; the Paper concluded: "It has been suggested to me that I should conclude this Paper with an appeal that the Legislature should intervene and define the circumstances under which an abortion may be performed. I am inclined to the view, however, that it is better that the Judges should make the law on this subject." His Honour then went on to refer to the problems of compendious definition.

It is also a matter of note that in the discussion that followed that Paper, Mr. Ashkanasy, Q.C., called in the most forceful tones that the problem should be faced and compendious definitions should be made. It is also of note that the late Sir Wilfred Fullagar entered a spirited protest against that suggestion, saying that nothing but harm could attend an attempt compendiously to set out definitions so that everyone could pick up a text book

saying that if these facts were present you could, and if not, you could not; that the law had never had any success in essaying that particular matter, and it was better to leave it to general principle.

I am aware that doctors find that reluctance of the law to specify in a scientific way or even to lay down guidelines what is proper and what is improper, most unsatisfactory, but that is, as such, the position of the law, and I think, having said that, that concludes the contribution which I can usefully make to this discussion.

PROFESSOR W. A. W. WALTERS:

Before launching into a discussion on this vexed question it might be useful if I define a few terms which I shall be using during the course of my address. The word "abortion" comes from the Latin, *abortus*, from *aborior*, "to set or disappear, as the setting of the sun." It was also used in Latin in the sense of arising from a losing game or the failing of the voice, or an untimely birth. The latter meaning became general and in late Latin, a verb *abortare*—"to abort", is found. The term appeared in English about 1580 as a translation of the French, *avorter*. Shakespeare included it in Richard III, Act 1, scene 2, "if ever he have a child, abortive be it."

Abortion, in medical parlance, is regarded as the termination of pregnancy at any time before the fetus has reached a stage of viability. Interpretations of the phrase, "stage of viability", have varied between twenty and twenty-eight weeks of human pregnancy which has an average duration of forty weeks. Whilst it has been reported that infants of twenty to twenty-eight weeks have survived after expulsion from the uterus, such an event is extremely rare and for practical purposes the upper limit of twenty-eight weeks is best regarded as the theoretical age of viability. With increasing gestational age above twenty-eight weeks the chances of viability increase progressively, so that after twenty-eight weeks until thirty-seven weeks the birth of the fetus is referred to as a premature birth, and after thirty-seven weeks gestation, birth results in a mature baby.

The layman tends to regard abortion as the criminal interruption of pregnancy, and prefers to use the term miscarriage for spontaneous abortion. Abortion may also be induced for therapeutic purposes (legal abortion) or for reasons which place it in the criminal category. In this paper, abortion will refer to in-

duced termination of pregnancy before twenty-eight weeks gestation by qualified or unqualified persons.

*Accepted methods of therapeutic abortion*

Dilatation of the cervix (neck of the womb) and curettage (scraping out the uterine contents) is by far the commonest method. It can be done readily before the twelfth week of pregnancy after which time the uterus is too large for this operation to be performed safely. In most cases after twelve weeks gestation, pregnancy has to be terminated by an abdominal operation in which the uterus is incised and the contents removed. It is a more major procedure than the former and carries greater hazards for the patient. In some countries and rarely in Australia, abortion after twelve weeks is induced by injecting a concentrated solution of salt or sugar into the gestation sac via the abdominal wall. This results in rapid fetal death *in utero* with subsequent onset of uterine contractions and expulsion of the conceptus.

Recently, vacuum aspiration of the uterine contents has been used successfully for terminating pregnancies up to twelve weeks duration. It is easier than curettage and results in less blood loss.

Chemical substances (e.g. prostaglandins) are now being developed to stimulate uterine activity and hence induce expulsion of the uterine contents. Soon, all that may be required to produce an abortion is the insertion of a tablet of some such chemical into the vagina. Prostaglandins will be available for clinical trials in Australia within a few months and may well revolutionize abortion therapy and attitudes towards abortion. Already they have been used successfully to produce abortion in the United Kingdom.

*Complications—Physical*

Abortion may impair a woman's health by producing a variety of complications occurring immediately at the time of abortion, soon afterwards or much later in respect to future pregnancies. The main complications are haemorrhage and injury to the uterus (perforation of the uterus or laceration of the cervix) which may result in serious morbidity or maternal death. Fortunately, these complications are rare in the hands of skilled practitioners. The frequency and severity of complications increase with the duration of pregnancy and are significantly greater in the second trimester than in the first and when unskilled persons (including pregnant women themselves) perform the abortion.

When abortion is induced in hospitals, maternal mortality varies from 2·8 per 100,000 (Czechoslovakia, 1957-1967) to 40 per 100,000 (Sweden and Denmark, early 1960s). The higher figure in Sweden and Denmark is probably due to the more rigorous selection of cases with many more complications amongst them than in the Czechoslovakian series which included many more healthy women. No figures are available for Australia. The frequency of non-fatal complications of abortion is much more difficult to estimate.

In a recent document in draft form received from the International Planned Parenthood Federation, it was stated that the mortality of legal abortion shows a wide geographical variation. A low mortality is likely where the operation is performed before twelve weeks gestation. The mortality of the operation also declines as surgical and administrative experience is increased, e.g. the mortality rate in Scandinavia has been halved since the 1950s, and in New York, since repeal of the law in 1970, most of the deaths occurred in the first few months of this new experience.

The long-term complications of legally-induced abortion have not been measured with great accuracy in any situation. Studies in Japan show that an interruption of pregnancy has no significantly greater risk of leading to subsequent infertility than term delivery. Premature delivery appears to be correlated with legal abortion in some countries, e.g. in Hungary there has been a rise in the incidence of prematurity since abortion became legally available. Fortunately, there has been no parallel rise in the infant mortality rate in that country. In view of the reduced incidence of immediate complications with vacuum aspiration and local anaesthesia, it is reasonable to expect that the long-term side effects may be subject to a similar reduction in the future.

*Complications–Psychological*

It is impossible to say in the present state of our knowledge whether there are good or bad psychological effects from abortion. Data are inadequate and deeply held personal convictions are frequently seen to outweigh the importance of data. In papers reviewed, the findings and conclusions range from the suggestion that psychiatric illness almost always follows therapeutic abortion to its virtual absence as a post-abortion complication. There is some agreement that women with diagnosed psychiatric illness prior to abortion continue to have difficulty after the abortion.

There is no information regarding the effect of the passage of time on the responses of women who have been aborted.

According to the International Planned Parenthood Federation, it is now appreciated that the attitudes of the observer are of critical importance in assessing possible psychological effects of abortion, in that if the professional people caring for the woman adopt a punitive attitude, she is likely to feel some degree of guilt afterwards; whereas if they adopt a sympathetic attitude, she is likely to sustain minimal or no emotional trauma. The stage when the pregnancy is terminated is likely to have an influence on adverse emotional reactions just as it does on the physical risks. No attempt has been made to measure the degree of emotional relief found in many women following termination of an unwanted pregnancy.

*Indications for abortion*

Depending upon the doctor's religious and moral views, the indications for abortion may range from none under any circumstances to abortion on demand. The following remarks are based entirely upon my own convictions and are therefore biased, but biased towards the health and welfare of the woman. Possible indications are as follows:

1. *None:* It is difficult to conceive that abortion is never indicated as will be apparent from succeeding paragraphs.

2. *Medical:* (a) Physical states: Abortion may be deemed necessary to preserve the life of the mother in certain patients with severe heart or kidney disease, malignant disease, etc. In such cases continuation of the pregnancy may not only shorten the life of the mother but cause her death at a stage before the fetus is viable, so that both lives are lost when one might have been saved. Patients in this category are few and far between, fortunately.

(b) Psychiatric illness: Most medical indications for abortion nowadays come into this category. Here, the interpretation of what constitutes a hazard to emotional health can be debated in the majority of cases and expert psychiatric opinions may be contradictory. Ultimately the gynaecologist has to make a decision in good faith after considering all the information available. It may be extremely difficult to decide which patients have a true psychiatric disturbance and which are feigning mental illness, and depending upon the doctor's sense of responsibility, he may think it is safer to give the patient the benefit of the doubt.

As mentioned previously, this is an area in which there is little factual knowledge. Much more research is required before we can assess the adverse effects of performing or failing to perform abortion in these cases.

(c) Socio-economic: Undoubtedly, adverse socio-economic factors are associated with unwanted pregnancies in many cases. Hence, they may be closely linked with the psychological or even physical health of the mother and her existing family. A recent survey conducted by staff of Melbourne University has revealed an unexpectedly high incidence of poverty in Melbourne, and it is in this very group of people that a high incidence of unwanted pregnancies occur, partly due to ignorance and apathy and partly due to inability to afford contraceptives.

In those cases where socio-economic factors are the *only* ones to be considered, it may be unwise to terminate pregnancy on the grounds of inconvenience alone.

(d) Abortion on demand: Abortion provided on request of the woman is liable to result in risks taken for inadequate reasons and is therefore not advocated. Furthermore, it might result in less efficient use of contraception which is always preferable to abortion. In addition, population growth may be reduced beyond requirements for the nation.

*Unwanted pregnancy*

The reasons for unwanted pregnancy are often multiple in any given case. They usually include intentional or unintentional failure of contraceptive measures or wilful neglect of contraception associated with underlying emotional disturbances, e.g. a rebellious daughter may wish to spite her parents by becoming pregnant or a discontented woman may wish to punish her husband by intentionally becoming pregnant and then seeking termination for excessive mental or physical illness.

*Consequences of unwanted pregnancy*

There are several possible outcomes for unwanted pregnancies viz.,

1. Continuation of pregnancy with eventual partial or complete acceptance of the child. In this case the child may have to grow up with a mother who resents it or is apathetic towards it.
2. Continuation of the pregnancy with eventual adoption of the child into another family. Adoption on a large scale would not be feasible logistically and is a time consuming and expensive process.

3. Termination of the pregnancy legally or illegally by abortion is a common method of coping with the problem while

4. Infanticide (killing of the baby at or soon after the birth) has been used in some societies but is obviously abhorrent and unacceptable in our society.

Theory, at present inadequately supported by research, suggests that unwanted conceptions have bad consequences for parents and children. Unwanted births impose social and economic costs in terms of institutional care, sometimes including lower standards of care, parental neglect (poor diet, lack of hygiene), neglect of medical needs and erosion of educational and welfare services. Children subjected to physical abuse by parents, psychological rejection by the mother, abandonment by the father and extreme poverty have a high risk of impaired psychosocial development and of inferior earning power in adult life.

*Prevention of unwanted pregnancies*

The best approach to unwanted pregnancy is one of prevention. It is unlikely that preventive measures can entirely replace induced abortion but they can reduce the number of unwanted pregnancies and therefore the number of induced abortions. Such measures include the provision of family planning services particularly for the lower socio-economic groups in the community, increasing financial aid to pregnant mothers and the inclusion of adequate education in schools on physiological and psychological aspects of sex and of family life.

A recent survey of married women delivered at a major public hospital in Melbourne showed that two out of every three were at risk of premarital conception. Our society accepts or tolerates premarital coitus but not its consequences—hastened marriage, illegitimate birth, or criminal abortion.

No attempt has been made to measure the degree of emotional relief found in many women following termination of an unwanted pregnancy.

*Abortion and the law*

Nearly all abortion laws permit a doctor to undertake abortion within a certain framework. They are not obligatory. The doctor has the most important role in interpreting the law and must always endeavour, along with the woman or couple to make the decision that is most likely to be in the interests of her health and that of her family. It is of paramount importance that all in-

volved in this difficult question realize that their role is one of service—to provide sympathetic, safe, expeditious and economical pregnancy counselling services without morally-biased judgmental attitudes.

*The present position of therapeutic abortion in Victoria*

In Victoria statutory legislation concerning unlawful abortion remains unaltered as stated in S. 65 of the Crimes Act, 1958. However, Mr. Justice Menhennitt's ruling in *R. v. Davidson*[1] has clarified lawfulness by stating that for an abortion to be lawful, the doctor must have honestly believed on reasonable grounds that the act done by him was:

1. Necessary to preserve the woman from a serious danger to her life or her physical or mental health (not being merely the normal dangers of pregnancy and childbirth) which the continuation of the pregnancy would entail; and
2. In the circumstances not out of proportion to the danger to be averted.

Although this judgment is more liberal than that of McNaughten, J. in *R. v. Bourne*[2] in England, it is still limited to medical indications for abortion and does not include socio-economic reasons, which constitute the major part of the problem.

Because emotional health cannot be measured quantitatively, psychiatrists and other doctors differ in their interpretation of the phrase "emotional health". From surveys carried out in Melbourne, we know that pregnancy not infrequently has a deleterious effect on the emotional health of women—anxiety is common in pregnancy and depression commoner in the puerperium than in the non-pregnant state. Furthermore, depression is commoner in women with children than in single women of a comparable age and depression tends to be cumulative, increasing with the number of pregnancies.

It is important to realize that emotional health may be seriously impaired without rendering the woman suicidal in the same way that physical health may be seriously affected without resulting in death.

In order to provide the best medical solution for the patient's disturbed physical and mental health, the doctor should take into account the alternative advantages and hazards of abortion, ille-

1 (1969), V.R. 667.
2 [1939] 1 K.B. 687.

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gitimate birth, hastened marriage or the birth and rearing of an unwanted child.

In countries where law does allow abortion under a restricted set of circumstances abuse of the law persists. Doctors vary in their interpretation of the law and some will perform abortions more frequently than others, which is unsatisfactory and unfair. In the United Kingdom, doctors freely admit to subjective bias in their interpretation of what factors in a particular case constitute grounds for abortion. Such variation in the opportunity to obtain abortion favours the development of illegal abortion and extortionate costs by medical practitioners and unskilled non-medical abortionists. When the law concerning abortion is restricted, it is very difficult to police anyway, because those offering abortion more liberally claim that they are acting within the law, which is then rendered impotent.

Furthermore, it is extremely difficult to frame a restrictive law in favour of abortion in view of the difficulty in differentiation between medical and social indications for abortion and the difficulty doctors may have in interpreting what the law means, particularly when we have no quantitative measure of physical or mental health.

Precisely because the restrictive law is so difficult to interpret, many doctors may avoid therapeutic abortions in patients in whom it is genuinely indicated because they fear legal action. Hence the patient suffers. Finally, restrictive laws encourage the growth of ever increasing illegal abortion performed by unskilled as well as skilled workers.

For all these reasons, I now tend to think that the only law that should exist pertaining to abortion is one aimed at preventing non-medical personnel from performing abortion by surgical means. The doctor, acting in good faith, should be free to perform abortions in those patients in whom the operation would be in the best interests of the woman and her family.

Whether we like it or not, abortion is an integral part of our pattern of social behaviour and is tolerated to an appreciable degree in this country despite taboos against it. The same exists in other countries and in fact a number of studies in Western societies suggest that one in every five pregnancies terminates in illegal abortion. The incidence of prosecution and conviction of abortionists is very low and the women aborted are very seldom prosecuted. Thus it is apparent that morals, religious beliefs and the law offer little restraint to abortion.

*Common fallacies of the anti-abortion argument*

1. *"Unborn baby" v. "fetus"*: The use of the phrase "unborn baby" rather than "the fetus" is aimed at emotional sensationalism, because we have been talking about the fetus at a very early stage of pregnancy when it is very small and quite unlike a mature baby in appearance. Even pregnant women do not regard the fetus at this stage as human. In a recent survey carried out in Melbourne amongst women of all socio-economic groups, a significant sample of the population could not distinguish the human fetus before twelve weeks gestation from the rat fetus or from a sea-horse indicating that they have a very ill-defined image of the fetus *in utero* and certainly do not regard it as a baby at this stage.

2. *Brutalization of society:* Opponents of abortion hold that it opens the door to the brutalization of society, encouraging euthanasia, infanticide and the killing of unsatisfactory members of society. This argument overlooks the fact that even when abortion is a criminal offence, society has not been able to prevent its occurrence. By legalizing abortion, society would have some prospect of firstly identifying the factors leading to abortion and then eventually eliminating them. There is no evidence that society has been brutalized in most countries where abortion is legal.

3. *Sexual promiscuity and fragmentation of the family:* Abortion is thought by some to undermine social structure by encouraging promiscuous sexual behaviour and weakening family ties. Again, in countries that have legalized abortion there is no evidence that these are consequences. However, there is good evidence from cross-cultural studies of societies, that when hastened marriage is practised as a solution to unwanted pregnancy, subsequent early divorce is more frequent.

4. *The Hippocratic ideal:* Anti-abortionists claim that abortion goes against the Hippocratic Oath which has been the ethical guide of the medical profession from the time of Hippocrates. However, nowadays the Oath is not taken by most new graduates in medicine, which suggests that it is not now regarded by the medical profession and the universities as relevant to the practice of modern medicine. The Oath contains the clause "Nor will I give a woman a pessary to procure abortion".

5. *The life of the fetus:* Those opposing abortion consider the life of the fetus as more important than the interests, both physical and mental, of the mother and her existing family. They place

the life of the fetus as more important than the subsequent emotional health of the child. It has been shown that children born to mothers who have previously had their request for termination of pregnancy refused are more prone to criminal and antisocial behaviour when they grow up. Opposition to legalization of abortion thus places the life of the fetus above all other considerations. This attitude seems reasonable when the mature fetus is being considered (since at this stage of pregnancy it is not unlike a baby) but it appears unreasonable when the fetus is a fertilized egg or a tadpole-like creature. In view of the vast difference between a fertilized egg and mature fetus, it might be useful to have a concept of graded morality which could be applied to the fetus during its intrauterine development. This approach would best match biological knowledge of fetal development.

6. *Quantity v. quality of human life:* Opponents of abortion choose to ignore the tragedy of poor socio-economic circumstances and by their own stand favour quantity over quality.

7. *Loss of potential geniuses and benefactors of mankind:* Abortion opponents argue that abortion may do away with a future great leader like Churchill for example. On the other hand it might also do away with future men like Hitler so that this is really not a useful argument.

*Conclusion*

Induced abortion is a world-wide problem since deaths from illegal abortion contribute significantly to maternal mortality in many countries. In those countries that are developing rapidly the incidence of abortion is increasing. Most abortions take place as a result of the desire to space or limit the size of families in certain socio-economic situations. Contraception and sterilization will prevent many but not all induced abortions. Once a decision to terminate a pregnancy has been taken within the bounds of legal and social acceptability in the country concerned, it is important that the termination is performed as simply and safely as possible.

*Acknowledgement*

I am deeply indebted to Professor Carl Wood for his advice in preparing this paper.

DR. J. J. BILLINGS:

It came as a surprise to me to hear Professor Walters say that there are people opposed to abortion who hold that the life of

the unborn child is more valuable than the life of the mother. I have met very many people who are opposed to abortion, and have listened to the arguments they use to support their opinion; I have never heard anyone express the view that saving the child's life is more important than saving the mother's life, and I do not believe that such people exist. The only personal experience which comes anywhere near such a viewpoint was the case of a pregnant woman admitted to hospital for treatment of haemorrhage during pregnancy and who said to the doctor who admitted her, "Don't do anything that might harm the baby".

The golden age of Greek medicine arose through the genius of one man, Hippocrates who was born in the fifth century B.C. on the island Cos. Living in a glorious age of Greece, contemporary with Pericles, Thucydides and Sophocles, Hippocrates dominated the physicians of his time and became the Father of Medicine. Famous in life, his reputation increased after his death because of the influence of his writings, the Corpus Hippocraticum. The first of these books is the Oath of Hippocrates, which begins with the words, "I swear by Apollo the physician, and Aesculapius, and Hygeia and Panacea, and all the gods and goddesses, that, according to my ability and judgment, I will keep this Oath and this stipulation" and goes on to say, "I will follow that system of regimen which, according to my ability and judgment, I consider for the benefit of my patients, and abstain from whatever is deleterious or mischievous. I will give no deadly medicine to anyone if asked, nor suggest any such counsel; and in like manner I will not give to a woman a pessary to produce abortion. With purity and holiness I will pass my life and practise my art."

The Hippocratic Oath shows the ethical heights which had been reached long before the birth of Christ and the spread of Christianity throughout the world. The Hippocratic Oath was accepted in its own time and adopted by Christian physicians as a proper statement of the ethical standards that should be expected of them. The involvement of so many doctors in the procurement of abortion contrary to the Hippocratic tradition, and the agitation for easy access to abortion in modern society, came at a time when the science of biology has made it immeasurably clearer than ever before that a new, unique human life comes into existence at the time of conception. The individual genetic code is established at the moment the sperm cell and ovum have united and therefore the whole pattern of development been determined. The clamour for abortion is occurring just when scientific studies

of conception and fetal development prove beyond any doubt that abortion means the destruction of human life, and when the medical care of the pregnant woman is better, to an extraordinary degree, than ever before. It would be prudent to examine the reasons for this change in attitude within the medical profession and in society generally, to try to measure its extent, and the inevitable repercussions upon a society which allows innocent human life to be destroyed at the will of another. Unfortunately as Dorothy Sayers once said, "Most people would die rather than think, and most of them do."

From the time of conception the embryo exhibits characteristics that are unmistakably human. With appropriate methods of examination, there is no question of confusion with the embryo of any other animal species. The young man writing in a university students' paper recently who said that he could see no real difference between a tortoise embryo and a human embryo has yet to realize apparently that his real problem is to see the difference between the adult tortoise and the adult human.

Within twenty-five days of conception the developing heart has commenced to beat; by thirty days, just two weeks after the mother's first missed period, the baby has a brain of unmistakable human proportions, eyes, ears, mouth, kidneys, liver and umbilical cord, as well as a heart pumping blood he has made himself. By forty-five days, about the time of the mother's second missed period, the baby's skeleton is complete, the buds of the milk teeth have appeared and he is making his first movements of the limbs and the body. By sixty-three days he will grasp an object placed in his palm and can make a fist; already he is so obviously a little child that he is now called not an embryo, but a fetus or "the young one".

It is well known that the Catholic Church is completely opposed to abortion in all circumstances. In the words of the second Vatican Council, recently concluded, "Abortion and infanticide are unspeakable crimes". It is sometimes stated, either through ignorance or as a tactic of debate, that this attitude has its origin in theological opinion regarding the creation of the soul. This is not so. The time of the creation of the soul, or "animation" of the young one, has always been a matter of theological speculation of innocent human life. If the abortionists can prove that Church is determined on the basis of the scientific evidence, stronger now than ever before, that abortion means the destruction of innocent human life; if the abortionists can prove that

they are not destroying human life, all argument will cease. They have, of course, no possible chance of doing so and are reduced to arguing either that all human life is unimportant, or that some lives are unimportant and may be destroyed at the discretion of others; that is what the argument is all about. It is an argument to which every person in society must find an answer, whether he is a Christian or a Jew, a Hindu, a Moslem, a person of any religion or no religion at all. In abortion the moral guilt belongs not just to the legislators and the doctors, but to all those people who are ready to demand or to accept the death of the young one, perhaps because it may be relatively simple and cheap to kill him rather than to face and solve the social and economic problems which have given rise to the demand.

There is also to be examined the question of individual liberty, the right to follow the dictates of conscience. Of this I would offer four opinions:

1. The proper concept of conscience involves an acceptance of the responsibility of one's actions to God, to one's fellow man, and to society. The atheist will deny any obligation to God but must acknowledge an obligation to do what he ought in other respects, otherwise he is not talking about conscience at all. Liberty has an imperative orientation towards responsibility, and respect for the rights of others. The exercise of conscience therefore demands a degree of study of the situation before decision, appropriate to its seriousness. The intellect must find a motive for choice in reason. No one has the right to do as he likes, without reference to anything but his own selfishness. If everyone demands the right to do as he likes, under the pretext of liberty, we shall see the decadence of civil society, and domination of the public order by violent and passionate forces.

2. The fundamental principles of a stable society are threatened by liberalized abortion laws, and each member of society has the right as well as the responsibility to determine the sort of society in which he wishes to live.

3. Catholics and others have an obligation to state clearly and openly the principles which they hold, and to argue the reasons which determine their opinions, in the search for truth. To do less would be to disregard the welfare of other persons. If I am to be my brother's keeper, I must concern myself about any attitudes he holds which may be damaging to him personally, as well as in his relationship to God.

4. In the case of abortion, there is an additional considera-

tion, because there is a third person involved, the young one. Whether or not particular individuals can be persuaded to accept the principle that abortion is wrong, some action must be taken on behalf of the child. This action may be wrongly interpreted as a lack of respect for the right of action according to conscience, or as a lack of trust in the sincerity of the other's belief. An analogy exists here with the problems that arose in the abolition of slavery. Human slavery is so abominable that it is hard to believe that there were so many people convinced that it should continue and who were able to advance plausible arguments in favour of it. In order that slavery be abolished, it was necessary to protect the slave against those people. Otherwise there would have been an attitude expressed as "those who don't believe in slavery are not obliged to keep slaves", a statement which finds a curious echo nowadays amongst those who favour abortion.

Historically medicine has been dedicated to the preservation of human life and along with the other learned professions has ethics and principles which have transcended fashions of opinion, statutes and cultures. It has recognized that an attack on the sacredness of life at any one point is to threaten all life itself. To be vitally concerned about the rights of innocent human life in the case of war, for example, whilst being quite indifferent to the destruction of innocent life in the case of an abortion, is evidence of an inability to maintain a consistent ethic based on principle. One who will ever attack human life indiscriminately exposes himself to similar indiscriminate attacks by others, thereby creating cycles of violence and a climate of fear.

Whatever the reasons proposed for abortion, the medical profession is inevitably involved since the destruction of life demands the appointment of an executioner. The declaration of Geneva, which has replaced the Hippocratic oath, is accepted by the majority of doctors all over the world. It says, "I will maintain the utmost respect for human life, from the time of conception." These are high-sounding words but unfortunately they lack precision and are capable of different interpretations. They do, however, indicate that abortion is admitted to be the destruction of human life, so that even if some doctors will admit abortion in certain special circumstances in which abortion is permitted by the law, they will not fail to recognize it as a detestable expedient and a confession of failure. Indeed, unless the great majority looked at abortion in those terms, the profession itself would be

degenerate, false to its ideals and unworthy of respect.

Of the so-called "medical indications" for abortion, it is the hard case which provides the greatest difficulty for many people; illness such that the mother on whom the whole family is dependent may lose her life as the result of pregnancy, cases of pregnancy in unmarried adolescence, pregnancy where there is serious threat of a handicapped child, pregnancy which is the result of incest or rape, and family circumstances such that an additional child will be born into poverty and cause increased hardship for his brothers and sisters. There is a tendency to discuss these difficult cases as though no solution were available, other than abortion. Yet many of the problems are really social problems, and require a social solution, not the removal of the problem by the removal of an innocent individual. Society must overcome the problem of poverty, and must provide sympathy, love and practical help to unmarried mothers, not hypocritical censure and abortion. The unfortunate victim of rape should not be allowed to become pregnant. And even when such an unspeakable crime as incest results in the further tragedy of pregnancy, the tragedy is compounded by the addition of abortion. In looking at these situations individually it is important to remember that once a principle is sacrificed for the sake of an individual in difficulties, the sacrifice of principle will inevitably cause greater suffering for a number of individuals in the end. This is what the lawyers mean when they say that hard cases make bad law. And once a principle is sacrificed, it is impossible to hold one's ground any longer.

One cannot imagine that the medical profession will tolerate indefinitely a procedure which carries the inevitable mortality on 100 per cent for one of the two lives involved. Neither will a society which wishes to survive regard as acceptable a solution for social ills which denies any innocent individual the right to go on living.

There is a deep and irreconcilable difference of opinion, God knows, between those people who regard abortion as lawful when the life of the mother is seriously threatened by a pregnancy, and those people, Catholics, members of other religions, or of no religion at all, who hold that the right of the innocent child in the womb to go on living is unalienable. Yet both of these groups may be actuated by a high regard for the sanctity of human life. There is evidence of this in my personal experience of observing the refusal of a number of individuals to accept abortion for

themselves in a practical situation comparable with the one they had believed would in theory justify them in seeking an abortion. It can be expected that many of them will revert to the more fundamental attitude of rejecting abortion altogether, as they see the ultimate result of surrender of principle in so many countries of the world. It is the person who is most concerned about the life of the mother who will prove to be most concerned about the life of the child.

The difference of opinion regarding the admissibility of abortion between these two groups does not compare with the gulf which separates all of these people from those who are permissive to the point of allowing legislation which in effect permits abortion on request or on demand. This is where the real argument lies, and it is not a religious argument at all. It is a matter of fact that within our pluralist society, these people who believe abortion to be unlawful in all circumstances have never sought to have their view enforced by legislation.

The abortion controversy in Victoria has been reduced to the single issue of whether a woman should be entitled to demand an abortion. The debate is between those who would say that the present law which allows abortion for the purpose of preserving the life of the mother, or her physical or mental health, is sufficiently liberal, and those who wish to remove all restrictions on procuring abortion.

In so far as abortions which evade the law are concerned, it is unfortunately true, that, in Australia, medical practitioner abortionists, not backyard operators, are the main problem. The doctors who have betrayed their ethical ideals to the point of performing illegal abortions, or who have assisted at their performance, or who seek to liberalize the law, fall, in my view, into four groups:

1. There are those who will destroy life by abortion for the motive of profit.

2. There are those who ostensibly perform abortion for other motives, but whose insincerity is reflected in the enormous number of indications that they find.

3. There are those who consider the operation of abortion distasteful and decline to perform it themselves, but are ready to recommend the operation to women and refer them to abortionists. Some of these see a kind of superiority in holding aloof from the surgical procedure itself.

4. There are those who really have no firm principles of any

kind and are ready to co-operate in meeting any demands their clients choose to make, imagining that they do not share the responsibility.

It is these groups of doctors who will tend to convert any but the most stringent laws permitting abortion into a situation which is virtually abortion on demand.

There is of course no real difference between abortion for socio-economic reasons and abortion on demand; if the reasons are not medical, only socio-economic reasons remain. And once doctors accept abortion for socio-economic reasons they will be accepting the right of non-medical people to direct doctors to perform abortion, because they can no longer resist on the basis of expert knowledge. Even in the presence of medical reasons, it may be very difficult to resist requests for abortion, unless the accepted indications are strictly defined and limited to very serious medical problems. It is of common occurrence for women and their husbands demanding abortion in the presence of some minor risk, to threaten the doctor with litigation if his refusal be followed by the occurrence of some medical complication for the mother or the child. Some doctors imagine that conscience clauses may assist them to maintain a stand on principle, without realizing that they cannot maintain a position in conscience against some abortions and not all. A conscience clause can only be of assistance to those doctors who will not perform abortions under any circumstances.

The attitude of a community towards abortion has implications for every member of that community, and it is therefore essential that no one evade his responsibility of forming a definite, considered opinion. The information should include the opinions of these individuals most concerned in analysing the medical indications, and the risks involved in carrying out an abortion. Rather than quote one individual against another, it is helpful to look at the consensus of opinion, for example, from such a body as the Royal College of Obstetricians and Gynaecologists. In 1966 the Council of this College published a statement regarding legalized abortion in which it said:

"Those without specialist knowledge, and these include members of the medical profession, are influenced in adopting what they regard as a humanitarian attitude to the induction of abortion by a failure to appreciate what is involved. They tend to regard induction as a trivial operation free from risk. In fact, even to the expert working in the best conditions, the removal

of an early pregnancy after dilating the cervix can be difficult, and is not infrequently accompanied by serious complications. This is particularly true in the case of the woman pregnant for the first time. Because of this, many gynaecologists consider the safer approach is often by an abdominal operation. For women who have a serious medical indication for termination or pregnancy, induction of abortion is extremely hazardous and its risks need to be weighed carefully against those involved in leaving pregnancy undisturbed. Even for the relatively healthy woman, the dangers are considerable."[1]

The statement went on to say:

"The majority of gynaecologists in this country can see no urgent need for reform of the law governing abortion," and also "we are unaware of any case in which a gynaecologist has refused to terminate pregnancy, when he considered it to be indicated on medical grounds, for fear of legal consequences".

In another part of the statement is the following:

"Those that plead for a widening of the indications for therapeutic abortion to include socio-economics as well as strictly medical condition, contend that one of the effects would be to discourage criminal abortion. This is an argument which was used repeatedly in the past to justify legalization of abortion in certain countries in Scandinavia and in the Continent of Europe. Yet there is evidence to show that, except in those countries where abortion on demand and without enquiry is permissible, the legalization of abortion often resulted in no reduction and sometimes in a considerable increase in the number of illegal abortions. This is because those women who aim to be rid of an unwanted pregnancy are so concerned to preserve secrecy or to avoid delay that they continue to seek help from unorthodox sources. In the meantime, the legalization of abortion alters the climate of opinion among the public and even the Courts of Law. The result is that criminal abortion becomes less abhorrent, and those guilty of the offence receive punishments so light as not to discourage them and others in their activity. The total effect is that women are increasingly ready to have their pregnancies terminated and potential criminal abortionists are less reluctant to help."

And again:

"While recognizing that it is sometimes necessary to terminate

[1] *British Medical Journal,* 2nd April 1966, pp. 850-4.

pregnancy in the interests of a woman's physical or mental health, or because of a strong possibility that the child resulting would be seriously handicapped either mentally or physically, Council wishes to emphasize that this treatment is second best."

Before the passing of the Abortion Act in Great Britain, therefore, gynaecologists who conducted their practices on strictly ethical lines could seldom find good medical indications for the performance of therapeutic abortions where the life or health of the mother were endangered by pregnancy and would be improved by termination. Rarely abortion was considered to be justified in severe diabetes, severe decompensated heart disease before the fourteenth week of pregnancy, and in malignant hypertension and chronic nephritis; this last indication was probably the most valid of all, although the end results were invariably poor.

In 1970 the same College conducted an enquiry into the operation of the Abortion Act which liberalized abortion in the United Kingdom in 1967, and made the following statements:

"Had our advice on the phrasing of the Bill been heeded, many of the abuses which are now worrying its sponsors would have been prevented. They were anticipated by this College, and its representatives repeatedly gave warning of them.

"Once the Act came into operation it became clear that its application, interpretation, and effects were such as to justify many of the original apprehensions of gynaecologists."

In particular it said:

"When the Abortion Bill was under discussion its advocates repeatedly assured the Houses of Parliament that abortion on demand was not their object. Had they done otherwise it is unlikely that the Bill would become law. Once the Bill was passed, however, there has been a persistent and intense campaign which has had the effect of making the public believe that any woman has a right to have a pregnancy terminated if she so wishes, and that gynaecologists have a duty to apply their surgical skills when told and irrespective of their expert judgment. It is this which is creating uncertainty in the minds of women and even resentment when they find it is not true. It may even account for widespread irresponsibility and failure to take the simplest and readily available contraceptive precautions to avoid unwanted pregnancies. It is certainly causing much disquiet amongst consultant gynaecologists, 92 per cent of whom (including many with ex-

tremely liberal views) are not in favour of abortion on demand."[2]

Concern in this second report of the Council of the Royal College of Obstetricians and Gynaecologists was also expressed regarding the possibility that the operation of the Abortion Act may result in "a decline in both numbers and quality of future entrants" to the speciality of obstetrics and gynaecology. Some specialists were beginning to suggest that the termination of pregnancy be no longer regarded as a function of obstetricians and gynaecologists. More than 80 per cent had encountered objections and oppositions from nursing staff to the performance of abortions and a number had also met objections from anaesthetists. It was found that the legalization of abortion had not materially reduced the number of deaths from abortions of all kinds and there was considerable concern about the delay and admission of women requiring urgent treatment because of the occupancy of so many beds by women wanting abortions. There were specific instances where women subsequently proved to be suffering from pelvic cancer was delayed several months because abortion cases had been given priority.

All this has happened despite the considered opinion also of Professor Jeffcoate, who is the present President of the Royal College of Obstetricians and Gynaecologists, following a review of abortions done in the Liverpool area in the 1950s, that indications for termination of pregnancy on medical grounds arises not more frequently than one case in one thousand. At this estimate specialist obstetricians and gynaecologists would regard abortion as medically justifiable in England and Wales to a total of not more than eight hundred; in 1970 the total number of abortions performed in England and Wales within the terms of the Abortion Act was approximately 84,000.[3]

By the time the proposal to introduce liberalized abortion laws into South Australia had reached the stage of debate in Parliament, the English Act was already under attack from many sides. The British Medical Journal in an editorial had described it as "A more than usually *imperfect* piece of law-making". The Council of the British Medical Association, with only one dissenting voice, had called for a full-scale public enquiry into the operation of the Act.

In the House of Commons, after only fourteen months of operation of the Act, a motion to review it, with a view to intro-

[2] *British Medical Journal,* 30th May 1971, pp. 529-535.
[3] *Hansard,* 30th April 1971.

ducing restricting amendments, failed by only eleven votes (out of four hundred and ninety-nine voters)—and this occurred in spite of the fact that two years previously only twenty-nine M.P.s had voted against the second reading of this Abortion Bill. Furthermore, on 14th April 1969, the Minister responsible for the operation of the Act, Mr. Crossman, had told the House at the end of the first year of operation of the Act, "The way the Bill is working, particularly in the private sector, is giving grave alarm, even to those who were keen supporters of the Bill."

The United Kingdom Government has recently moved to set up a full-scale public enquiry into all aspects of the operation of the Act in England. No major legislation has been subject to review after such a short interval in the history of the British Parliament.

In the operation of the South Australian legislation, the number of abortions performed has risen steadily for each quarter of the year, just as happened in the United Kingdom. In the first full year of the new Act in the United Kingdom there were about 35,000 legal abortions, in the second year 54,000 in the third year 92,000 and the numbers are still rising. In South Australia 1,330 legal abortions were reported in the first twelve months, but the figure had risen to 1,024 for the first six months of 1971. Comparing the populations of South Australia and the United Kingdom this increased rate of abortions means that within eighteen months the rate of abortions has increased to the figure which was reached only after three years in the United Kingdom, a rate which is causing the people of the United Kingdom to cry out in alarm. The actual figure is probably even worse, because it happens in all countries that many of the abortions which are carried legally under liberalized laws are never reported.

In South Australia 78 per cent of the abortions performed in the first year were carried out by specialists in obstetrics and gynaecology, in the first half of 1971 this figure had dropped to 56 per cent. There has recently been a suggestion in New York that medics returning from Vietnam, that is to say people who we would call medical orderlies, be given the task of performing all the abortions in order to relieve gynaecologists and other doctors from the task. In this way the wheel will have turned a full cycle, and the law which was supposed to have been designed to prevent abortions being carried out by people who are not

medical practitioners will have ensured that abortion by unqualified people will be given legal sanction.

The South Australian legislation is worthy of consideration in considerable detail. It became law in South Australia on 8th January 1970 and followed the legislation of the United Kingdom, almost word for word. Its content can be considered under two main headings thus:[4]

1. The "greater risk" clause.
2. The "fetal abnormalities" clause.

The *"greater risk" clause* allows a legally qualified medical practitioner to terminate the pregnancy of a woman

> Where he and one other legally qualified medical practitioner are of the opinion formed in good faith after both have personally examined the woman—
> (1) That the continuance of the pregnancy would involve greater risk to the life of the pregnant woman or greater risk of injury to the physical or mental health of the pregnant woman, than if the pregnancy were terminated.

It is first to be noted that there is no longer any question of considering the rights of the mother against the rights of the child. The rights of the child are not considered at all; the question is the balance of risks, the risk of continuing the pregnancy versus the risk associated with terminating the pregnancy. Every pregnancy of course has some risk, and so too has abortion. The risks are approximately the same. If abortion is done before twelve weeks of pregnancy, the risk to the mother from the abortion is held by many doctors to be less than that of the pregnancy. Historically, "this greater risk" provision was introduced into the abortion Bill only five days before the Bill was finally passed, and the medical profession in the United Kingdom was given no opportunity to consider its implications, no time in which to make representations to Members of Parliament in relation to it.

Mr. Millhouse, who was then Attorney-General in South Australia and who holds the doubtful distinction of having been responsible for the introduction of the South Australian Abortion Bill into Parliament visited England beforehand to study the operation of the English law. He announced in the South Australian House of Assembly that he had been advised by representatives of the medical profession in England that it was from this

[4] E. G. Cleary, "Some important issues raised by liberalizing abortion legislation in practice, based on experience in South Australia and the United Kingdom", in "Why Abortion?", Beckett Press, Pty. Ltd., Melbourne.

"greater risks" clause that most of the abuses of the Act in England had sprung, and that he had been urged by them to seek an alternative form of words. He chose, however, to represent this clause, along with the rest of the Bill, as having been the subject of searching examination and discussion before it had been introduced in the United Kingdom.

The *"fetal abnormalities" clause* allows two doctors to agree, as before, to terminate pregnancies on the ground,

> That there is a substantial risk that if the pregnancy were not terminated and the child were born to the pregnant woman, the child would suffer from such physical or mental abnormalities as to be seriously handicapped.

In the presence of the "greater risk" clause, this second clause is hardly necessary for the woman seeking an abortion. But even if the first clause were altered, it is important to examine the fetal abnormalities clause separately because it introduces into the law a new concept, and it is a concept which shows the close link between abortion and euthanasia, a concept that there are lives which are not worth living, and that it is within the capacity of other people to decide that this is so, and to arrange for the destruction of those lives. If abortion is to be permitted on this ground, on what principle are other innocent and helpless lives to be protected, such as the physically handicapped, the mentally retarded, the incurably ill and the old? If you permit liberal abortion laws to be introduced your children will kill you, because you permitted the killing of their brothers and sisters. They will not want to support you in your old age, they will kill you for your homes and estates. And if a doctor will take money for killing the innocent in the womb, he will kill you with a needle when paid by your children.

It is important to remember that in a number of instances the request for abortion is prompted by a situation which may be one of great difficulty, even of great tragedy, for the pregnant woman. It is helpful to look at the arguments which are advanced in favour of abortion, so that we can understand why abortion is a bad solution and so that we are able to exercise the utmost compassion for the woman, and provide her with all the medical care and practical help we can organize.

It is very much to be recommended that assistance in family planning be easily available, and it must be ensured that there is a genuine respect for the moral attitudes of those people seeking

help. It has been the unfortunate experience in all those countries where easy abortion is available, that family planning is very much neglected as a result. Australia has been no exception to this, as the South Australian figures quoted below demonstrate.

Let us look at the arguments which have been proposed as justifying liberal abortion laws:

1. The young one is not to be regarded as a human life. If the abortionists were able to prove this, all arguments would cease. They have no chance of doing so and one has only to look at what is involved in the performance of an abortion, to understand what it means.

There are four methods commonly used:

(a) Up to about three months of pregnancy, the usual method is to dilate the neck of the womb and then insert a large forceps to drag out the young one and the other products of conception. This involves dismemberment of the child who is crushed and extracted in pieces. Sometimes the fragments are then made unrecognizable in a vitamizer.

(b) Another method in early pregnancy is to apply suction, rather like a vacuum cleaner process. In this technique the baby is reduced to an unrecognizable mess.

(c) If the pregnancy is advanced beyond four months the mother must have a hysterotomy, which is a miniature Caesarean section. She has a general anaesthetic and an abdominal operation, with opening of the womb and lifting out of the baby. The baby moves its arms and legs and gasps as it tries to breathe before it dies; sometimes it even emits a tiny cry.

(d) A large needle may be inserted through the abdomen into the womb and then a strong solution of sugar or salt injected. The baby makes a few convulsive movements and then dies. Labour sets in within a day or so and the dead child is delivered. Its appearance is quite striking as the hypertonic solution damages the skin and produces a "toffee-apple" appearance.

Recently the use of chemical substances which occur naturally, the prostaglandins, has been suggested. There are various chemicals in this group, and they occur in various human tissues. Some of them are important in the onset of normal labour at the end of pregnancy and if given early in pregnancy, particularly by injection, they may produce abortion. They have been recommended particularly for the abortion of early pregnancies in what is euphemistically called "bringing on the period". The

prostaglandins have a great appeal because they offer the hope to abortionists that the sickening horror of the other procedures will be able to be avoided. However, their hopes may prove to be without much prospect of fulfilment, because they are frequently ineffective and produce only partial expulsion of the contents of the womb, so that one of the other procedures becomes necessary as well. Quite apart from their limitations imposed on their use by the current legislation regarding abortion, there are serious medico-legal problems to be considered if prostaglandins were administered without precision in diagnosis, for example, if they were administered to a woman with an ectopic pregnancy, a mole complicating conception etc. Finally, it can be confidently predicted that what has happened in the case of the contraceptive pills will prove to be the case with the prostaglandins, namely that the drastic interference with natural processes by chemical agencies will produce such serious ill-effects that fewer and fewer doctors and patients will employ them.

Unable to substantiate the claim that the young one is not human life, the abortionists then try to argue that the young one is an inferior form of human life. This is the argument that was used in Nazi Germany about the Jews who then became the subject of medical experimentation or destruction, to serve the welfare of the German people. There were doctors in Nazi Germany who co-operated in this activity, to the lasting discredit of the profession. One can hardly believe that Jews or American Negroes, or black South Africans would favour this sort of argument for abortion.

2. It is suggested that liberal abortion laws are necessary to preserve the health of women. The idea is fostered that women are dying in pregnancy because therapeutic abortion is being denied them. This is not so. The statistics of the Maternal Mortality Committee in Victoria reveal that there are about twenty deaths per year associated with pregnancy, and that an analysis of these cases shows that in the great majority the patient has died from some unpredictable cause of a complication of pregnancy that occurred late in pregnancy, such as the totally unexpected development of accidental haemorrhage, rupture of the uterus, pulmonary embolism etc. in which there had been no indication at all for the performance of a therapeutic abortion in the early months of pregnancy.[5]

[5] Francis J. Hayden, "Maternal Mortality in and Today", *Medical Journal of Australia*, 1970, 1: 100.

Experience in South Australia since the liberalized laws were introduced there are significant. There was published in the *Medical Journal of Australia* on 18th September 1971 an analysis of five hundred and eighty-two women who were seen in two teaching hospitals requesting abortions. Of these women 37 per cent were single, 42 per cent had never used contraception and a further 40 per cent were not using contraceptives when pregnancy occurred. There was no maternal mortality, but there was a significant morbidity in 18·6 per cent of the cases, even though most abortions were performed by trained gynaecologists. These complications included haemorrhage, infections, perforation of the womb; in one case emergency hysterectomy was performed. The figures give no account of the late complications such as chronic pelvic pain, sterility and psychiatric illness. 36 per cent of the women had no children at all, and a further 42 per cent had only one to three children. There were only 22 per cent of the women who had four or more children.[6]

The president of the British Medical Association, Sir John Peel, in his presidential address to the annual meeting of the British Medical Association this year, entitled "The Health of Women" drew attention to the following facts:

"Since 1964 the overall birth rate has been falling steadily, but at the same time the percentage of births, both legitimate and illegitimate, to girls under the age of 20 has been increasing. Though the implementation of the Abortion Act of 1968 has caused a drop in the overall illegitimate birth rate, the rate in girls under 16 actually rose by 200 per cent in the ten years 1959 to 1969. Further, during the past three years there has been a steady increase in the number of terminations carried out in girls of this age group. Though no figures are available to indicate the number of illegal abortions carried out in girls in the younger age group before the Abortion Act, experience both in Britain and elsewhere indicates that the number was not large and that the rate of illegal abortions was very much higher in older women. This fact suggests an even more significant increase in the conception rate in very young girls in the past few years."

Later on he says, "Unhappily it is a matter of both commonsense and factual experience that the availability of a way out—

[6] H. T. Connon, "Medical Abortion in South Australia. The First Twelve Months Under New Legislation", *Medical Journal of Australia*, 18th September 1971, pp. 608-614.

namely, abortion—makes so many less responsible in their use of their new found sexual freedom.

"In 1971 the relative safety of childbearing is a monument to medical research, social progress and improved standards of care for all women. At this time the fetus can be monitored and its progress during intra-uterine life recorded with far greater accuracy than ever before, with a view to its ultimate well-being after birth. And yet at this very time pregnancies are being more irresponsibility conceived and healthy fetuses more wantonly destroyed than ever before. It is an ironical and disheartening prospect for those most intimately concerned with the health of women."[7]

3. Many people have been deceived into believing that liberal abortion laws are necessary to stamp out criminal abortion, and that women are dying by score, at the hands of backyard abortionists; this is completely false. The Maternal Mortality Committee figures for Victoria over the sixteen years up to 1970 there have been forty deaths from abortion in Victoria, combining both criminal and natural abortions. During the last eight years there were seven deaths. Where more abortions are performed on healthy young women with normal pregnancies, the death rate from abortion will be lower than exists with abortions performed for serious medical conditions, but a mortality rate will remain. The increased abortion rate which inevitably follows the liberalization of the law regarding abortion means that the very liberalization itself will be the responsible factor in the death of many women who have been thereby encouraged to seek the abortion of a normal pregnancy. In England and Wales in 1968, the year after the law was liberalized, there were 22,000 abortions and four deaths from abortions which were performed legally. In 1969 there were 54,000 legal abortions resulting in ten deaths. The only way to prevent deaths from abortions, both legal and criminal abortions, is to prevent abortions altogether, not to pass legislation which allows the incidence of abortion to increase astronomically.

Experience has also shown that liberal abortion laws do not eliminate criminal abortions. In Japan, Yugoslavia, Hungary, Czechoslovakia, Switzerland, Bulgaria, Poland and the U.S.S.R., liberal abortion laws had no effect on the criminal abortion rate, in Yugoslavia the criminal abortion rate actually increased following liberalization of the law. In the German Democratic Re-

[7] *British Medical Journal*, 31st July 1971, pp. 267-271.

public the incidence of criminal abortions increased the liberal abortion law, but when in 1950, the law was revised to allow abortion only for strict medical indications, there was a precipitate fall in the number of criminal abortions.

4. It is argued that the denial of abortion contravenes a fundamental right of women. The rights of women in this matter may be stated as follows: Except for the extraordinary of pregnancy following rape, no woman is forced to become pregnant at all. Even the liberal abortion legislation of Great Britain does not allow abortion for rape, because of the medical and legal difficulties in establishing the fact that rape has occurred. The South Australian evidence is similar to that obtained elsewhere, in that the majority of women seeking abortion had made no real effort to prevent the pregnancy. Figures from Japan show that the incidence of pregnancy following abortion is 50 per cent within the next twelve months, and many women have had as many as three abortions per year.[8]

5. Abortion is proposed where there is a substantial risk of the child being born with a major disability. The problems are that none of these disabilities can be predicted with certainty in the first three months of pregnancy, and none has a 100 per cent risk. Rubella in the first month of pregnancy, provided the diagnosis is certain, carries a risk of about 50 per cent as do certain dominant genetic conditions affecting a parent, incestuous unions, maternal mongolism and some rarer disorders. A smaller risk, varying from one in three to one in ten, is present with rubella in the second and third month of pregnancy, ingestion of thalidomide, heavy irradiation, and where there is consanguinity between parents who have previously had a retarded child. If the doctor considers that abortion should not be performed if the risk is less than 50 per cent, he will recommend abortion only in the high risk group and accept the loss of one normal child for every one that is abnormal. If he considers that abortion should be performed if the risk is only 25 per cent, he will recommend abortion in the medium risk group and accept the loss of three normal children for everyone that is abnormal.

Arguments regarding the risk of serious physical or mental handicap does not come from those who are handicapped, yet they ought to be the ones to express opinions. It is not the pre-

[8] Hayasaka, Toda, Zimmerman, Ueno and Ishizaki, "Japan's 22 year experience with a liberal abortion law," presented to the 11th International Congress of F.I.R.M.C., 1970, p. 5.

vailing attitude of our community that the lives of all seriously handicapped persons are not worth living, and we do not treat them in such a way that they should think so. Some abortionists have gone so far as to suggest that in the circumstances of the particular abortion, "the young one would not really want to live". This is an extraordinary example of compulsory suicide.[9]

6. One of the most shameful of all arguments used to support the demand for abortion is that it will save the child from being born into poverty, either in this country or in the developing countries of the world, where the standard of living is still much lower than ours for many of the inhabitants. The failure to realize the impact of such an argument, when it comes from a person whose stomach is well-lined to one who is constantly hungry, shows an incredible lack of insight as well as a lack of humanity. Yet the shameful behaviour of representatives of wealthy nations who made acceptance of birth control programmes a condition of economic aid has been exceeded by suggestions that sterilization and abortion are necessary, and should even be made compulsory.

That the physical resources of this world can support only a finite number of inhabitants is a statement so obvious as to be trite. Having first become obsessed about contraception, and having seen the general failure of contraceptive programmes involving pill and intra-uterine devices, many of the demographers and ecologists have created an atmosphere near panic, in an endeavour to persuade people to accept abortion to control population growth.

It is, however, a fact of human biology, and indeed of animal biology in general, that improved nutrition and a higher standard of living cause a decline in the birth rate as a natural phenomenon. There was evidence of this, for example, in the United States of America following recovery from the economic depression of the early nineteen-thirties and before efficient contraception became available. Similar observations have been made in less privileged communities, in Ceylon and Malta, for example, where improvement in living standards, and the provision of more adequate maternal and child health facilities was followed by a fall in birth rate, also before any influence of contraceptive measures could operate. The astronomical amounts of money which have been spent on contraceptive programmes in those

[9] David Pitt, "The Likelihood of Congenital Disease", *Medical Journal of Australia*, 1969, II: 712-5.

areas where poverty abounds would have been better spent in promoting increased food production and improved health care.[10]

Quite apart from the natural effect of a decline in fertility, improvement in the standard of living would promote voluntary co-operation with programmes designed to limit the birth rate to a manageable level. So far as the family planning component of total solution is concerned, I have no doubt that the Natural Method can succeed where other measures have failed. I first made that prediction publicly in 1964, and experience since that time has served to strengthen my opinion.[11]

7. Another argument which is sometimes used in the argument of despair. Because abortion has occurred in all societies in all ages, one has to accept it. Allied to this argument is the idea that if many people flout a law, the law itself must be bad. The consequences of such an attitude do not require much imagination. An endeavour to eliminate a crime by making it legal is an offence not only to jurisprudence but to commonsense itself. In a civilized democratic society the law is directed to protect the individual. If a man has merited the loss of liberty he is called an outlaw, because it is the man under the law who is the free man. When a society ceases to protect the fundamental individual freedom of all, the right to life, that society is corrupt.

When the liberal legislation is brought before Parliament, it comes as a Private Member's Bill, with a "free conscience vote" so that the political parties can evade responsibility. Intense lobbying of individual members of parliament persuades many to align themselves with the Bill or to absent themselves when the vote is taken.

It is not even necessary for the law to state expressly that it permits abortion on demand. One has only to provide a law which is capable of being exploited to provide abortion on demand. Given the existence of such a law it would require only one doctor in every hundred in our community to be false to his professional ideals, for every pregnancy that occurs in this state to be terminated legally, that is to say, they could perform 70,000 abortions per year if requested. Is there any profession that exists that has a smaller percentage of unscrupulous individuals?

[10] C. D. Williams, "Population Problems in Developing Countries," *Transactions of the Royal Society of Tropical Medicine and Hygiene,* 1966, 60, 1, 23.

[11] J. J. Billings, "The Ovulation Method", Advocate Press, Melbourne, 4th Edition, 1972.

One out of twelve is a more familiar incidence of desertion and treachery.

Abortion contaminates the whole of society. It corrupts the medical profession and the nursing profession, married life, the family, the police force. "A community that endures a contemptible law is itself contemptible."[12]

Both doctors and lawyers must reflect upon the truth that talent alone is not a sufficient quality for a profession which calls for the protection of the just and the true. In the words of Cicero (de Officiis, 3, 6.) Justice *"Omnium est domina et regina virtutum"* and must be based on an objective order and not merely subjective conscience.

There is now in the community a most laudable concern about the nature of modern warfare, with the use of highly efficient weapons of destruction. Innocent lives are destroyed by the indiscriminate use of such weapons and we stand in terror of the implications of atomic, bacteriological and chemical wars. Over the six years of the Second World War, more than fifty million lives were lost and it is appalling to reflect upon this tragedy. However, in a single year, the year 1965 for example, according to estimates issued by the United Nations, there was the deliberate destruction of thirty million lives by legal and illegal abortions. It is not enough to share a horror about the destructiveness of war, there must be horror also at the destruction of innocent and defenceless lives by abortion. The evil minority which promotes easy abortion is to be equated with the evil minority which promotes war.

The attitude of society towards abortion is of such fundamental importance that the community has the right to know where the political parties stand, and in a democratic system the political parties have a responsibility to declare themselves. In both the United Kingdom and the state of South Australia the laws have produced a situation which the majority of the population did not desire, and the political parties have escaped responsibility. In the United Kingdom the abortion legislation was passed with only two hundred and fifty members being present to vote, out of a total membership of the House of Commons of six hundred and thirty. Whilst there is pressure within the community for abortion on demand, at each election the candidates should be prepared to declare where they stand in the matter so

[12] Alfred G. Stevens in "Bookfellow" 1-3-1912; quoted in "The Australian Character" p. 62, ed. by Malcolm Gibbs, Collins, Sydney and London.

that the electors may exercise their right of conscience and decide for whom they will vote. The candidate has no right to escape responsibility by absenting himself from Parliament at the time of the vote, nor has he the right to represent an electorate by concealing views with which they do not agree.

The Founding Fathers of the United States of America in their Declaration of Independence said, "We hold these truths to be self-evident; 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." It was Abraham Lincoln who said "Our defence is in the preservation of the spirit which prizes liberty as the heritage of all men, in all lands, everywhere. Destroy this spirit and you have planted the seeds of despotism around your own door . . . at what point then is the approach of danger to be expected? I answer, if it ever reaches us it must spring up amongst us. It cannot come from abroad. If destruction be our lot, we ourselves must be its author and finisher. As a nation of free men, we must live through all times, or die by suicide."[13]

Men are not equal in ability or achievement, in opportunity or material goods. The only possible meaning is that each man is equally a person, unique, possessing a dignity and deserving a respect not accorded to animals or things, sharing a sameness in kind that outweighs qualities of endowment or achievement.[14] For just as everyone is human at every stage of his own existence, so is each individual no more and no less human than any other individual. Thus, in essentials the unborn child is the same as you and I, differing from us only in such non-essentials as size and ability, even as you and I differ from each other without lessening the humanity of either.

[13] Quotations from a speech at Edwardsville, Illinois, 11th September 1858 and address before the Young Men's Lyceum, Springfield, Illinois, 27th January 1838.

[14] Paul Marx, O.S.B., "The Death Peddlers: The War on the Unborn". Chapter 11, Saint John's University Press, Collegeville, Minnesota, U.S.A.