

## THE WRONGS OF ABORTION

I shall argue in what follows that abortion is a grave moral evil, first because of what it does to the child and second because of what it does to the woman. My arguments will focus on the nature of abortion, or on abortion in its essential idea. The methods and incidental effects of abortion, while they will not be wholly ignored, will be considered of secondary importance. So let me set out in schematic fashion the divisions that my discussion will fall into.

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### **A. What Abortion does to the Child**

#### *The Basic Argument against Abortion*

My argument here, in its basic form, is as follows:

1. Abortion is the direct killing of innocent human life.
2. The direct killing of innocent human life is murder.
3. Murder is wrong and not morally permissible.
4. Therefore abortion is wrong and not morally permissible.

The logic of this argument is simple and straightforward enough, and it is clearly valid, for the conclusion does indeed follow from the premises. What has excited opposition, of course, and provoked all the controversy is the truth of the premises themselves. Reasons for rejecting the truth of these premises are roughly as follows.

As regards premise one, that abortion is the direct killing of innocent human life, some protest that what abortion kills is not human. It is just a collection of cells lacking the fully developed structure of a human being. Or if what abortion kills is human then, at least in some cases, it is not innocent. It is, if only despite itself, threatening the life of the mother and may be opposed and removed as a matter of simple self-defense against an

aggressor.

As regards premise two, that the direct killing of innocent human life is murder, some protest that murder is really the killing of *persons*, not the killing of human beings merely. To kill something that is biologically human, they say, but that lacks the characteristics of persons, as thought or self-consciousness and the like, is not murder. The permanently comatose, for instance, are in this condition and to end their lives by removing or withholding life support is not murder and is not regarded by us as such, even though we would all regard as murder the doing of the same thing to someone who was not comatose but in full possession of his faculties. The unborn, they then add, are like the comatose, for as the latter are humans but *no longer* persons so the former are humans but *not yet* persons. Hence aborting the unborn is no more murder than is removing life support from the comatose.

As regards premise three, that murder is wrong and not morally permissible, some protest that, to the contrary, certain murders are right and morally permissible, or even morally obligatory. A classic example to prove this is where some terrorist has kidnapped a number of innocent persons whom he intends to kill. However he is prepared not to kill them if you agree to kill one of them. Then he will let the rest go free. In this case, so it is argued, it would be right for you to kill one to save the rest. Another example is where there is a conflict between rights and one right trumps another, as in the case of the pregnant woman's right to choose, or her right to life, trumping the unborn's right to life. Here too, it is argued, to kill the unborn to save the mother is morally right or even morally obligatory.

These objections raise deep and interesting puzzles and each needs to be dealt

with fairly. Since they turn, however, either directly or indirectly, on the moral and ontological status of the unborn, my discussion will first focus on what sort of being the unborn within the mother really is. My specific responses to the objections will be given later, though a number of points that anticipate those responses will appear in what immediately follows.

I will begin with an argument in defense of the claim that the unborn is a person that can, in its essentials, be stated and understood quickly and simply. I hold this argument to be sound as it stands but, because it may seem to pass too quickly over points of ontological, if not also moral, significance, I will follow it with a further argument, no less sound, that does not pass over those points. This further argument will, not surprisingly, be complex and involved. It will also be heavily metaphysical. But I make no apology for that. Questions of the being of things are inherently metaphysical questions, and inherently complex too.

### *Quick and Simple Argument that the Unborn are Persons*

#### *Statement of the Quick and Simple Argument*

Here, then, is the quick and simple argument.

5. The unborn in the mother is, from the moment of conception, an ontologically distinct human life.
6. An ontologically distinct human life is a person.
7. Therefore the unborn is a person.

I call this argument quick and simple because the premises neither state anything intellectually complex nor depend for their comprehension on any complex analyses (in marked contrast with the other argument to be given later that does require such analyses). But this argument is not quick and simple if what is meant by its being quick and simple is that it is uncontroversial and does not excite any objections or criticisms. No argument is quick and simple in that sense. Accordingly I will in the next section give some proof of its premises. Objections and criticisms will either be dealt with in the course of exposition of the complex and involved argument that is to follow, or find themselves answered later along with my answers to the objections, just stated, to the basic argument.

*Proof of the Quick and Simple Argument*

The proof of premise five is given by the modern sciences of genetics and embryology. First, the zygote, which is the immediate result of conception and the first stage of the unborn in the womb, is not something inanimate or dead. It is very much alive. To deny this would be absurd. Second, it is not alive as an organ of the mother's body; nor is it a living residue or tissue of the mother's or father's body or even of both of them. It is a distinct organism with its own distinct genetic code different from that of the mother, and with its own principle of life and development different from that of the mother. Third, the life of this organism is human life. It is not the life of a cat or a horse or an eagle, for it does not have the genetic structure of any of those animals. It has a *human* genetic structure and its life is the life of that genetic structure, namely human life.

Those who try to reject these facts by saying that the unborn is a part of the

mother's body are trading on an ambiguity in the word 'part'. For 'part' could mean what is inside the mother simply or what is inside the mother as an integral member of her body. In the latter case, however, the zygote (or the unborn generally) could only be part of the mother's body if it were an organ of her body. But it is not an organ of her body, for it is not an *organ* at all but an *organism*. To think otherwise is to commit a straightforward scientific mistake. This is all that premise five is meant to say. It is not denying that the zygote or the unborn is part of the mother; it is only denying that it is part of the mother as an organ of the mother instead of as a distinct organism within the mother. It is not asserting that the zygote is living a human life in the sense that it is reading books or going to the movies or planning to get married; it is only asserting that the zygote is alive and that its life is the life of what it is, namely of an organism that is *human* and not feline, say, or equine or avian.

The proof of premise six reduces to a matter of definition. 'Person' is the generally accepted term to refer to a distinct individual human being. 'Person' is, in other words, a substance term and not a property term. In the classic definition that goes back to Boethius, a person is an individual substance of a rational nature. That the zygote or the unborn is a substance is clear, for it is an organism and an organism is a living substance (unlike an organ which is not a substance but an integral part of a substance, as a hand is an integral part of the substance man and not itself a substance). That its nature is a rational one is clear from the fact that it is human (and not feline, equine, or avian), for human nature is a rational nature (while feline or equine or avian nature is not). One should not be disturbed here by the fact that the zygote or the unborn cannot exercise any rational functions. The nature of a thing is not its functions but that which grounds its

functions or that which is the ontological root of its functions. That the zygote already has that root, even if much time must pass before any of the rational powers are actually present or can be put into actual exercise, is evident from the mere fact that it is human (which, as above noted, is evident from the mere fact that its genetic structure is human). That the zygote or the early unborn does not yet have the appearance of a person (as distinct arms, legs, eyes and so on) is irrelevant. This is to confuse being a person with being an adult, or at least with being physically complete, and to confuse the phenotype, or how a thing visually appears, with the genotype, or what a thing is in its genetic structure and nature. The phenotype may indeed be the *way* that we typically recognize the natures of things (for natures are manifest to us through their visible characteristics and acts), but it is not *what* we recognize when we recognize the natures of things. For the nature of a thing is neither the exercise of its powers, nor the outward appearance of its shape, nor its other visible characteristics; rather is it, as above remarked, the ontological root of this exercise and shape and characteristics.

Premise six is thus not trying to say that the zygote or the unborn behaves or looks like an adult or even like an infant. It is merely saying that since the life of the zygote is the life of an individual substance that, like any substance, has a nature, or some determinate structure that makes it to be this thing (a human being) and not that thing (a horse or a bird), and since the nature of the zygote in question here is human, the zygote satisfies all that is required for it to be a person.

*The Complex and Involved Argument that the Unborn are Persons*

*Statement of the Argument*

The quick and simple argument is sufficient, I contend, to prove the premise that the unborn are persons. However, because it may seem too simple and quick, and indeed because, while sufficient, it nevertheless does not deal with some important and interesting questions in the analysis of the unborn and their personhood, I turn now to my other argument which is neither quick nor simple and does deal with these further questions. In its basic form it runs as follows:

8. The unborn is a human being *in statu fiendi* (in a state of becoming).
9. A human being *in statu fiendi* is reductively a person.
10. What is reductively a person is ontologically and morally a person.
11. Therefore the unborn is a person.

I call this argument complex and involved because of the terms ‘*in statu fiendi*’ and ‘reductively’ and ‘ontologically and morally’ that appear in it. These terms are in need of considerable explication and analysis. In fact they and the discussion of them that follows here may be viewed as the philosophical expansion of the idea, introduced above, that the unborn are radically or substantially human. For while this idea has an intuitive truth and obviousness, it can and should be given, if possible, a fully articulated clarification. At all events, since, in the case of abortion, it is the *being* of the unborn, or what sort of thing the unborn is, that is primarily at issue, and since the unborn, for most of its existence in the womb, is in a state of *becoming*, the question of what the unborn really *is* becomes

the question of what sort of being a being in a state of *becoming* really is, or what, more precisely, the being of becoming really is, and what the implications of this are for the personhood of the unborn and for our moral obligations in respect of them.

There are three premises in the above argument and each will be dealt with in turn in what follows.

### *Proof of the Argument*

#### *The Being of Becoming*

In the case of the coming to be of a human being (or indeed of any living thing) there are various stages and kinds of becoming involved. The child in the womb first and foremost undergoes becoming in the sense of the progressive articulation of physical and psychical parts and functions, from tissues and fluids to limbs and organs, and from digestion, evacuation of waste and movement to sensation, imagination, memory and the like. But the child also undergoes becoming in the sense of increase in size or bulk, which seems to be the main sort of becoming that goes on in the final months of pregnancy. Yet even this is not the end of becoming, since after birth there is considerably more increase in size and bulk that goes on as well as all the progressive development and education of physical, emotional, mental, and spiritual powers. Since all these are kinds of becoming, the same general analysis of becoming must apply to all of them, but, in the present context, the focus will naturally be on the becoming that goes on within the womb and in particular the becoming that is the basic articulation of the child's several parts.

The main puzzle about becoming, which gives rise to the difficulties about saying what precisely becoming is, is that a being that is becoming both is and is not. It *is*

whatever it has already become but it *is not* what it is still on the way to becoming. For if it is not already something then its becoming has not yet begun, and if it is not still on the way to being something more then its becoming has stopped. Becoming, then, is essentially what goes on *between* being and not-being, or it is the in-between of being and not-being. To get a clearer grasp of what such 'in-between-ness' really is, or what sort of being a thing can properly be said to have which is between being and not-being, it is best to take the example of spatial becoming or of motion from place to place. This is perhaps the simplest kind of becoming and the easiest to imagine, though its analysis is not without its pitfalls.

Motion from place to place, or locomotion as we call it, can be either real or apparent. A train that pulls out of a station is really moving away from the train next to it that is stopped in the station. But the stationary train is also moving, though unreally, relative to the departing train, and for someone sitting in the stationary train it can seem, at least for a while, that his train is the one that is really moving and not the other (I am abstracting, of course, from the motion of the earth by which both trains are moving with respect to the planets and stars, for this motion is incidental to their motion as regards each other). The reason is, of course, that locomotion is always also relative motion, for it is always motion in relation to some place, and provided that at least one thing is really in motion and so changing places then all the other things related to it, even if they are not themselves really in motion, are changing places with respect to it (they are now closer to it, for instance, and now further away). Changing place can thus, apart from being real, also be unreal or simply external and involve no motion of or within the thing whose place is changing, as in the case of the stationary train with respect to the departing train.

This kind of merely relative or apparent change and this kind of unreal motion are not the kind of motion I wish to talk about when I talk about locomotion in what follows. I mean rather to be talking about things that are changing places because they are themselves, like the departing train, really in motion.

If one asks, then, of a thing really moving from A to B (as of a man running a race or of a train traveling from one station to another) what its being is as thus moving from A to B, one must say, as already remarked, that its being is its being between A and B. For when it is at A it is not yet moving, and when it is at B it has stopped moving. Is it then moving at C, which we can take as some arbitrary point between A and B? Strictly speaking no. What we say of moving things while they are moving is not that they are now here (meaning by that some determinate fixed point), but rather that they have just passed here or are about to pass here, or that after passing here they have about a half or a quarter of the way to go, or the like. The reason is that a moving thing never strictly speaking *is* at any point of its movement. No point of its movement is a place for it to stop and be for a while but a place for it to pass without stopping (at least while it is in motion and is not temporarily resting somewhere, as a runner might stop at a drink stand or a train might stop at a red signal). A moving thing is of necessity only a moving thing when it is moving, that is to say, when it is not *at* a place but *between* places. For as soon as it can properly be said to be *at* a place it is no longer moving but stopped.

Thus the old puzzle (which goes back to the Ancient Greek Zeno if not further) that a thing can only move where it is or where it is not and that, since it cannot be moving where it is (for if it is where it is then it is not moving) nor where it is not (a thing cannot do anything where it is not), therefore nothing moves, can readily be answered.

For this puzzle is falsely assuming that a moving thing must be determinately at a place throughout its moving, whereas, in fact, qua moving, it is never determinately at a place. So it moves neither at the place where it is nor at the place where it is not, because, strictly speaking, it is not, qua moving, *at* any place. Rather, to speak somewhat barbarously, it is between '*wheres*' and not at a '*where*'. The other old puzzle (going back to the same Zeno), that space is infinitely divisible and that, since to pass from one place to another is thus to pass an infinite number of points (which cannot be done), therefore again nothing moves, is similarly to be answered. If the moving thing, in order to move, had to be at each of these infinite points in turn, then one might perhaps say that nothing moves. In fact, of course, as already argued, a moving thing is never, strictly speaking, at any of the infinite points of the space over which it moves. It is at a point only before it starts (namely at its starting point) and after it finishes (namely at its finishing point). When it has started and has not yet finished, none of the infinite points that lie between its start and its finish is an actual point for it, since, qua moving, it never *is* at any of these points. Rather all there is is a single expanse which, while infinitely divisible, is never, for the moving thing qua moving, infinitely divided. Nor, in fact, is this expanse even finitely divided for the moving thing, but it is moved over as one undivided continuum.

This is not to say, of course, that a moving thing is not anywhere at all, as if it were some non-spatial abstract entity like, say, the number two. On the contrary, a man running on a race track is on the race track all the time he is running. But here the race track embraces the whole space of his running and is more properly the place *over* which he runs than the place *at* which he runs (since there is, in the strict sense, no place on the

race track *at* which he runs). Of course we do sometimes speak of people running on the spot and in this case we can indeed speak of a place at which someone is running. But here what we have really done is to change the meaning of 'run'. We are now using it to mean the moving of our legs quickly up and down and not the moving of ourselves, by our legs, quickly forward (or backwards). Moreover, the analysis we give of this up and down movement will have to be the same as we give of the forward movement, namely that the movement does not take place *at* the up or down but *between* the up and down. The same analysis will have to be given of things moving in circles or spinning like tops, which are not moving or spinning at any point of the circle of the spin but continuously through the whole of it as through a single continuum. The same will be true also of things moving continually in a straight line. For while here it need not be true that these things or their parts are moving from A to B (for let us assume that the motion is perpetual and does not begin or end anywhere), it is still true that their moving is not their being *at* a place but their being *between* places. The difference is that, in their case, unlike in that of the runner in a race or a train traveling to the next station, they are forever between places because they are forever moving.

Let us, however, for present purposes, focus on cases of motion that do naturally have a beginning and an end (for this is what is relevant to the becoming of the unborn in the womb). A thing, then, that is moving from A to B, like a runner in a race, could stop, or be made to stop, prematurely at some intermediate point C. But if so, C would be the end of the motion and not B as originally intended. The motion between A and B was, we would say, interrupted at C. But it makes no sense to say that the motion was *interrupted* at C unless we can identify the end, B, towards which the motion was first tending and

can, further, identify the actual end of the motion at C as other than the original end B and as intervening contrary to the tending that the thing had towards that original end. Interruption is a sort of failure, a failure to get to the end aimed at. It is, moreover, a real failure. The thing that was moving to B really ceases, because of the interruption, to continue moving towards B and really loses its being as tending towards B. This moving and tending could, of course, be restored if the thing starts again towards B, but this restoration would be as much a reality in the thing as its previous ceasing to move towards B. So, if we want to say what being a thing has that is moving from A, or from C, to B, or what its being is as such a mover, we will have to say that its being is its tending towards B. The tending of it to this end is an essential part of what it is and one cannot understand what it is apart from such tending. To try, for instance, to understand it in terms of where it is now and without reference to anything further is not only impossible in itself (for, as has been argued, a moving thing, qua moving, is between places and not at a place), but is in addition wholly to miss out the very fact that it is moving. Motion is essentially a *being towards*, not a being simply. Without this “towardness” there just is no motion. Such tending, therefore, and the end towards which this tending is directed are essential to the idea of motion, and indeed of moving things insofar as they are moving.

This point is of the utmost importance and needs to be stressed if the being of becoming, as opposed to the being of being (so to say), is to be understood, and its difference from being is to be correctly analyzed. A number of confusions and errors in the abortion debate (not to mention the debate about change more generally) can be more easily exposed and avoided if this distinction between being and becoming is carefully

noted and its implications carefully followed. The chief error or confusion arises from empiricism or empiricist tendencies in philosophy. By empiricist tendencies I mean the tendency, which is very marked in the abortion debate, to identify a becoming thing with the observable and measurable features that are manifest at some particular time or, as it is said, at some particular time-slice of the process of becoming. So the becoming thing will be said to be these features in the sense that it is *just* these features, and the features that it will come to have at some later date are thus excluded from what it is or what it is said to be. So the zygote or the embryo, or whatever stage of the unborn in the womb one cares to take, will be said to be just *this*, for example a single cell of forty six chromosomes, or a collection of such cells, or a partially articulated whole of such cells. What this cell or cells are also becoming, since this is not yet present and is not yet observable or measurable (as, say, distinct limbs, or distinct capacities are observable or measurable), is not regarded as relevant to determining what the cells now are. But this means, not just that the future condition of the cells is denied to be part of what they now are, but that the present *becoming-ness* of these cells *towards* that future condition is also denied to be part of what they now are. But this is the direct opposite of the truth. Such becoming-ness towards a future condition is part of what they now are; indeed it is the essential and primary part of what they now are. The other features, especially those that are immediately observable and measurable and that therefore the empiricist approach focuses on, are derivative and secondary. They exist because the becoming exists, and not because they exist does the becoming exist.

The error here (and it is an error endemic to the whole of empiricism and empiricist-influenced approaches) is the attempt to reduce the dynamic to the static, or

the attempt to explain what a becoming thing is through those features that would still be manifest, and perhaps most manifest, if the becoming thing were frozen in time and a snapshot taken, as it were, of this frozen moment. A snapshot or static photo of a running horse, for instance, freezes the running to the moment captured by the camera, and does not show the actual process that is the running. Of course, the illusion of the running can be created if a number of such static photos are taken in quick succession and then played back at speed on a screen. But this is, after all, only an illusion of running, because the eye, due to the speed of the successive replacements, cannot detect the static images individually, though it can detect them easily enough if the speed is slowed down. The real horse, however, and its real running are not a succession, however quick, of stationary moments. They are irreducible continuities; and the continuous cannot be explained through the discrete however many the discrete parts are thought to be (the infinitesimal calculus and suchlike devices used in mathematics do not disprove this, for these devices are just tools of calculation and are not about the real being of things; mathematics, after all, is not ontology). Nor can the dynamic be explained or even discerned through the static. The becoming of a thing simply disappears if one looks at it in terms of isolated moments or time-slices. Becoming does not exist outside time or at indivisible moments; it exists only in time and between moments. Hence to dispense with time and its continuity is to dispense with becoming and change altogether.

There are other sorts of motion or change besides motion in place. Notably there is change in quality, as when a thing becomes a different color, or in quantity, as when a thing grows, or in form, as when a thing develops. These changes too, like change of place, are essentially cases of tending towards an end. Indeed, perhaps they are more so.

For change of place, besides admitting of a real and an apparent motion (as in the case of the apparent motion of the stationary train with respect to the real motion of the departing train), also admits of a difference, within real motion, between inertial motion and what we may call active or energized motion. Inertial motion, while it is a real change of place for the thing moving, does not involve any activating or energizing of the thing. Inertial motion is rather a steady state of the thing. Such inertial motion is especially to be found, at least theoretically, in cosmic space where objects, once set in motion, are supposed, because of the lack of impediments, to continue moving in the same direction and at the same speed without stop and without further impulse unless or until acted on by something else. By contrast things that are in active or energized motion are experiencing some such impulse. So objects moving in cosmic space that are speeding up or slowing down or changing direction are being acted on by a force of some kind, whether from within or without, and are experiencing the energizing of that force. Likewise, objects moving on earth that are not at the moment slowing down, as a runner in a race or a train traveling between stations, are also being acted on by some force (a force coming from within in their case), in order to overcome, by continuous acceleration as it were, the opposing and decelerating forces of friction, gravity, wind resistance, and so forth. This second kind of motion, active or energized motion, is not, unlike the first kind, a steady state of the thing but rather a real change of the thing. Only to this second kind does the analysis strictly apply that was just given of motion as a tending towards an end. For inertial motion is not a tending of the moving thing towards an end (even though it is really, and not just relatively, changing place). Rather is it the remaining of the thing in the end it has already reached, namely the state of continuing in the same direction at the

same speed. Acceleration or deceleration, by contrast, are tendencies towards an end, namely towards the end of some greater or lesser speed or, in the case of the train and the runner, of the same speed.

### *Reductive Personhood*

Leaving aside further discussion of the change that is locomotion, let me use the results achieved so far and apply them to the other kinds of change, and in particular to the changes that we call development and growth. The unborn in the womb is clearly and above all undergoing these two sorts of change. It is in the process of becoming a human being, or, as premise eight says, it is a human being *in statu fiendi*. So if, as just argued, such change or becoming is essentially a ‘being-towards’ in the sense of what is between being and not-being in its tending towards its final being (final with respect to the change in question if not its final being simply), the unborn must essentially be this ‘being-towards’. But what precisely does this mean in this case, or rather what precisely does it entail about the being of the unborn?

Here we must introduce the philosophical idea of reduction. By reduction is meant, literally, a “leading back” (re-duco) of something to its proper place, or a returning of a thing to where it belongs (a returning home, if you like). In the case of the analysis of something, reduction means the leading back of understanding to what is prior or first in the thing, or to what the thing essentially is in its primary or fundamental being. Most often this reductive analysis is understood to mean only the leading of the thing back to what is prior or primary in it by way of what is first in time. So, in the case of physical things, reductionism is identified with some kind of materialist analysis of the

thing, because the material parts are typically first in time. So a table, for instance, is reduced to the pieces of wood that the carpenter fashioned and put together, and these pieces of wood are in their turn reduced to the logs cut to shape and size in the saw mill. Likewise a plant or an animal is reduced to the parts and materials that went into its fashioning, and these to the seed from which it grew and to the sources of nutriment provided by the soil or the mother's womb. Such reductive analysis is not wrong, but it is limited and one sided. As the name 'materialism' indicates, it reduces things to their material parts only. But a thing is not its material parts alone; it is also and even primarily the structure that the material parts are fashioned into. A table, for instance, is not the pieces of wood alone; it is the pieces of wood in a definite form and structure that is designed to fulfill a definite function. Plants and animals too are not stems or leaves or bones or flesh only, but rather these things in an organized and active whole. Reductive analysis can, therefore, also proceed, and indeed in a way that is more accurate to experienced reality, by reduction to the structure or organization of the whole that the material parts are formed into when the thing in question is complete.

Such reductive analysis of the parts to the whole, rather than of the whole to the parts, is all the more necessary when the coming to be of things, whether natural or artificial, is the focus of the analysis and of the reduction. For, as argued in the previous section, the nature and being of becoming is determined, not by where it begins (its temporal and material origin), but by where it ends. A becoming, insofar as it is a real becoming or change in the thing that becomes (and not the apparent change of the stationary train or the relative change of inertial motion), is a becoming towards an end, and so the end of the becoming enters into it as determinative of what it is, namely that

the becoming is a coming to be of this and not of that. The end-directedness of real becoming or change is decisive in any reductive analysis of it and without reference to the end no analysis, or no complete analysis, has been given, but the becoming remains unknown or, at best, partially known.

In fact, to be more precise, the end of becoming enters into becoming and so into its analysis in two particular ways. It enters both into the real definition of the being of becoming and into the motive force that drives the becoming. The directedness of the becoming thing towards the end it is becoming is a real and internal ordination of the thing to this end. For, insofar as the becoming thing is at all, that is, insofar as it has being qua becoming, it is an ordination towards its end. So much is manifest already in the formal definition and analysis of becoming, namely that becoming is a coming to be this, say, and not that. This analysis and definition are not, it must be stressed, merely verbal. On the contrary, they are real. They express what the becoming thing really is insofar as it is.

With respect to the motive force, note that a becoming thing may be in the process of coming to be either because of an external principle acting on it from without or because of an internal principle acting on it from within. The pieces of wood that are becoming a table, for instance, while their becoming a table really enters into what they are insofar as they are so becoming, are not becoming a table because of any inner drive they have towards being a table. On the contrary, they are being acted on from without by the carpenter whose own powers are operative both in conceiving what table they are to be and in actually fashioning and joining them so that they do become this table. The pieces of wood do not have, in their own nature, any drive to become tables let alone to

become this table as opposed to that. The only drive that they have in their own nature is to sprout into some tree or shrub (the tree or shrub they were originally cut from), if, retaining still some life in them, they were to be planted in suitable soil.

Let us turn, therefore, to this inner drive of pieces of wood, when planted, to become trees or shrubs. The possession of such inner drive is proper to natural things as opposed to artificial things. But again there are two ways in which such an inner drive may exist in things, either passively or actively. For some natural things and natural motions may be like artificial motions insofar as the inner principle of motion is a principle to be acted on and not a principle to act. So the way bodies are attracted to other bodies, which we call gravity, is passive in this sense. A body is such that in the presence of another body it will be acted on by it and drawn towards it. True, this being attracted is reciprocal and while a body is being attracted by another so is it attracting that other in turn. It has, that is to say, an active power to attract another as well as a passive power to be attracted. But insofar as it is itself set in motion, or insofar as it itself undergoes an internal change, it is passive, for it receives the motion from the other body that attracts it. Its power, in other words, to make another undergo change is active, but its power to undergo change within itself is passive.

Such a passive principle of change exists, incidentally, in the wood insofar as it can be fashioned into a table. For it is only because wood already by nature has an inner capacity to be cut and shaped that it can be fashioned by a carpenter into a table. The carpenter's art takes advantage, as it were, of this capacity when making a table, but that this capacity is realized in the form of a table and not a chair, or in the form of this table and not that, is due to the carpenter and not to the wood. We might say the same of

people tanning themselves on the beach. They are taking advantage of the passive power of their skin to be tanned. Their skin has an internal passive power to be darkened by the sun and the sun has an internal active power to darken skin (or in general to burn skin through its heat and its light). But that the skin's capacity to be darkened is realized in this part of it and not that, or darkened now and not then, or darkened so much and not more or less, is due to the wishes and intention of the sunbathers in exposing themselves to the sun in this way and not in that. Thus, while we have to say of the wood and the skin that the end of their becoming has to enter into the analysis of their being insofar as they are becoming a table or becoming tanned, this end belongs to them primarily because of an active power that is external to them (the carpenter in the first case, the sun and the sunbather in the second) and only secondarily because of their inner passive power. For this inner passive power could be activated in a myriad of different ways, and that it is now activated in this way and not that is because of the external active power.

Some natural things, however, have an inner active principle, not just to bring about change in others, but also and primarily to bring about change in themselves. They have, as we say, a power of self-motion and not just of other-motion. Such natural things are what we call living things, for it is proper to living things to be self-movers or self-activators (whether, as with plants, to activate themselves in nourishment and growth, or, as with animals, also to activate themselves in perception and locomotion, or, as with men, also to activate themselves in thought and choice). Let us consider this phenomenon, then, of self-motion and analyze it, or reduce it, to its fundamental being.

This being is an inner drive and, like all drives, is a drive towards a particular end, the end of the motion or change that the drive brings about. But it is also an active drive

(and not a passive capacity to be driven), and so it is a drive that, as active, initiates and directs the motion that it brings about. So it is a drive that contains within it, that is to say within its being as such a drive, the end that it is directing the motion towards. Of course, it does not possess this end as realized (for then the motion would have ceased as having already reached completion); but it must possess the end as aimed at. It must, therefore, possess it in intention, as we say. One must be careful, however, not to suppose that this intention is some act of consciousness of the thing. Rather is this intention internal to it as part of its very nature and structuring. The thing acts for the end of its active drive, not as thinking of and choosing this end, but as having this end built into its nature. Thus, insofar as it acts at all, which it does naturally and not by choice, it acts for this end or to achieve this object, and not for some other end and to achieve some other object.

It is perhaps useful to note here a distinction between natural active powers and rational active powers. The first are, because natural, determined by their very nature to some specific end and object and they cannot naturally do anything else. Rational powers are not so limited or determined. They can have many ends. I mean by rational powers the power of artisans and artists like carpenters. For a carpenter can make a table of this sort rather than that and is not, qua carpenter, determined to making only one kind of table, nor is he determined to making only tables and not also chairs or cupboards or writing desks. In addition, a carpenter chooses not only what to make but also when to make. He can decide to make a table today and a chair tomorrow, or decide to make a table and chair today and nothing tomorrow. The determination, that is to say, not only of the end of his power but also of the acting of his power is up to his choice and is not fixed for him by nature. Natural active powers, by contrast, are not only fixed as to their end

but also as to their acting. As soon as they are in their natural place and all impediments are removed they cannot fail to act. So a seed planted in the ground with sufficient water and nutriment and sunlight must grow into the plant of which it is the seed. A carpenter by contrast, even when in his carpentry shop surrounded by all his instruments and materials, need not make this rather than that, nor need he make anything at all. He does what he wants as and when he wants. A carpenter has reason and choice and his power qua carpenter is a power whose exercise is determined by reason and choice and not by nature. That is why his power is called a rational active power and not a natural active power, and it is only in the case of such rational powers that there is a conscious awareness of the end and a conscious intention to do it. What rational powers do by choice with consciousness, natural powers do by nature without consciousness.

Still, even with this distinction in place, a rational power, when it has been determined to do this now and not that later, or rather when the artisan has chosen when and what to make, has, at least for this particular exercise of it, been fixed on some particular end and on some particular time. So this end and time are, for its present act, an essential part of what it is. The power in the case of the carpenter is, shall we say, “table-today” activated and not “chair-tomorrow” activated. Thus, to the extent that it is already activated in some determinate way, a rational power has the same analysis and the same reduction as a natural power: both are in their being fixed on this end and not on that. Since natural and rational active powers are in this respect, therefore, not different, and since this is the decisive respect for understanding the becoming that is the becoming of an active power in actual exercise, let us leave aside for the present any further discussion of the peculiarities of rational powers and concentrate on the natural active powers.

Since the end of natural active powers belongs to their very being (just as the end of rational active powers belongs to their very being insofar as they have been determined to some definite exercise), it begins and ceases with them. As soon they are it is, and when they are not it is not. The acorn, for instance, is, as soon as it is, an oak-oriented thing and has the active power, in a suitable environment, to make itself into an oak tree. Oak-ness or being an oak is built into its being as a real intention naturally within it, which structures what it is and determines its power. Not to include this in its being, and in the reductive analysis of its being, is to fail to understand what it is and what its nature is. The ontological reality that an acorn is must be analyzed by, and so be reduced to, the ontological reality of the oak tree that it is to become. The acorn, of course, is not an oak, for by oak we typically mean in English the fully grown tree. But the acorn is to be reduced to the oak tree in the sense that the acorn belongs to the class of oaks and that it is the completed members of this class, namely the adult oak trees, which determine what it is to be an oak and so what the inner-directed end of an acorn is. In other words, oak tree enters into the becoming that an acorn essentially is. An acorn is essentially the starting of an oak tree, and oak tree determines the intentional directedness of the acorn's active power, for its power is essentially a power to become an oak tree. Hence an acorn must be reduced to an oak tree because the being of an acorn qua acorn is oak tree-directed and oak tree enters into its proper analysis.

Therefore, by the same token, we must say that human being enters into the being and analysis of what, right from the time of conception, it is to be an unborn in a woman's body. Indeed, we can and must say that full human being enters into this analysis, for such fullness is the reality of the becoming that, already at the stage of the

zygote, the unborn essentially is. Thus the unborn, throughout its time within the mother, is reductively a full human being. In fact this conclusion can be, and has now been, shown in at least four ways.

First, the unborn is reductively a full human being for the reason just mentioned, namely that such fullness is its end, which end is an essential part of its being qua becoming (and, of course, the unborn is essentially a becoming thing). Second it is so because the unborn is a self-moving thing, or because its becoming is something that is moved and directed from within by its own active power, which power, qua being this power and not that, is a power for fullness of human being. Accordingly such fullness enters into its nature as its already present intention. Third it is so because, whether the power it has to be a full human being is active or just passive, this power is a real ordination in it. Indeed, even if the unborn's becoming were realized by an external power acting on it from without, this becoming would still be, insofar as the unborn was becoming, a real ordination proper to it. The view of some ancient thinkers seems to have been of this sort, that the power acting on the unborn was external to it, at least at the beginning. So the male sperm was supposed to act as an external mover on the menstrual matter in the mother molding it, as it were, into human form from without, just as the carpenter molds the wood from without into the form of a table. Only after a certain period of time, when the process of molding had proceeded far enough, did the menstrual matter in the mother receive activity from the sperm and start to move of itself. Quickening was judged to be when this self-motion first appeared, so that the unborn was not strictly alive until that point. That this view is false we now know from embryology, but even were it or something like it true, the matter of the unborn that was being acted

on from without would, insofar as it was being so acted on, have an ordination, albeit a passive ordination, towards the end of the acting, and so would, by reductive analysis, have the being of that end. Accordingly, the unborn too, even as we now know it to be, has this passive ordination to the end insofar as it is receptive of its own inner activity and is made to be that which its active power is making it to be. The unborn is, as it were, its own carpenter or its own maker, as is indeed true of all natural things insofar as they are self-movers. Fourth, and finally, the unborn is reductively a full human being because of what was mentioned at the beginning, that the unborn has, already as a zygote, the full genetic structuring of a human being. This point can now, indeed, be seen as an implication of what has just been said, for this genetic structuring is but the concrete, observable expression of the active power of the unborn to move itself to its end. This genetic structuring contains within it, as the end actively aimed at, the fullness of human being.

In other words, then, and to summarize, the fullness of human being enters into the present reality of the unborn in these four ways: i) as what defines the becoming that it now is, ii) as what its powers of self-motion are now actively aiming at, iii) as what it now has, qua becoming, a real ordination towards, and iv) as what its genetic structuring is now determined by. In all these ways the unborn is reductively a full human being. So it is reductively a person too, for a full human being is a person, as everyone concedes. And this is what was said in premise nine above.

### *Personhood Ontologically and Morally*

If the unborn is reductively a person, then certain things necessarily follow about its

ontological and moral status, or about what the unborn is and how it should be treated. Recall first, then, that, as already indicated, there is a certain error involved in asking what the unborn *is*. For, put like this, the question gives the impression that, to answer it, we need only consider, as we would only consider in the case of the completed adult, what the unborn is in the immediately present moment of time. But to do this is to set aside precisely what should, in the case of the unborn (as in the case of any becoming thing), never be set aside, namely that its being is not and cannot be what is immediately given *in* any particular moment. Its being is, rather, what can only be given and discerned *between* moments. Time-slice analysis of the sort favored by empiricism is, as mentioned before, inappropriate, if not to say false, for becoming things. Or at any rate it is so to the extent that it excludes, as it is typically meant to exclude, any intentionality that the thing has towards being something further. For such intentionality can only be understood temporally, that is to say, only with reference to future existence, since future existence, qua object aimed at, enters essentially into the being of intentionality.

Intentional being has its being from the intended end and so, in order to say what an intentionally determined being ontologically is, one has to say either that it *is* not, because it is *on the way to* being, or that, to the extent that it is, it is by having drawn to itself something of the being of its end. Whatever being it has is borrowed, as it were, from what it will be, and is, so far, a sharing of that being. So the being it has, if this being is to be described or defined at all, is the being of its end. No other account of its being can be given, and if any other account is given it will be false. That is why becoming things are reduced to their end and have, reductively, the being of their end and of no other being. If we ask, therefore, of a becoming thing what it is or what is the being

that it has, we should say, if we say anything, that it has the being of its end and that, to the extent that it does have this being or to the extent that it is, it is its end and *is* nothing else. To put the matter compendiously, the being of the unborn is intentional being and its ontology cannot properly be understood except in terms of intentionality, that is, except in terms of its end.

What is thus true of the ontological status of the unborn is equally true of its moral status, or of how it should be treated. This too must be analyzed intentionally. I mean that if one should, in accordance with the principle of justice, treat things as what they are (treating, for instance, a parent as a parent, a spouse as a spouse, and so forth), then, in treating the unborn as what they are, one should treat them as what they intentionally are. For that, after all, is the being that they are, and the only being that they are. But since the unborn are intentionally human persons, then it is as human persons that they should be treated, and such is alone what justice can sanction in their regard. For the unborn is not intentionally a human person in some relative or external way, in the way that, for instance, a block of marble being contemplated by a sculptor is intentionally the statue that the sculptor is planning to make out of it. The intentional being of the unborn is an active principle that is constituting it from within and that is already, as such, a real sharing in the end of that intention. The unborn, therefore, is already, in its moral reality, a human person. It is as much human in its moral status as it is in its ontological status.

Note, incidentally, that all this will apply to the unborn right from conception, or from the zygote, onwards. The fact that part of what the zygote becomes is the placenta (which is clearly not a person, not even *in statu fiendi*), or the fact that a zygote might

later split into twins, makes no difference. The zygote, as soon as it is a zygote, is at least one person *in statu fiendi* even if it later becomes two or more persons *in statu fiendi*, and even though part of what it does is to produce something else out of itself, a placenta, for the sake of survival (for completed persons also produce something else out of themselves, hair and the like, for the sake of survival, or at least better survival).

Note too that while such is what one should say about the being of the unborn, it is only what one should say as long as the unborn (at whatever stage of its development) is in fact becoming a person. For if this becoming is stopped half way through, so that the becoming ceases, or if the becoming is seriously derailed, so that the unborn starts becoming something else (some monstrous birth, as we might say), then it would be wrong to say that it was any longer a person, whether *in statu fiendi* or in any other way. It would be similarly wrong, for instance, to say of someone who started running a race, but who later drops out or starts running back to the changing room, that he is any longer a runner in the race. Thus, paradoxical though it may seem at first sight, an unborn at an early stage of development could properly be called a person, while an unborn at some later stage, where the development has stopped or gone completely off the rails (as might be true, for instance, of the anencephalic), could not properly be called a person, or only a person in the sense of having once been a person *in statu fiendi*. Given, however, a proper analysis of becoming, we can see that speaking like this is perfectly intelligible as well as correct. The condition, of course, is that the disruption in the becoming should be real and serious. A mere deformity in the development (as say, Down Syndrome, or the absence of a limb, or the like), however bad it may look, or however badly it may hinder the exercise of natural powers as the child grows, would not count as ending personhood

because it would not count as ending the becoming.

We must conclude, therefore, that the unborn is in its ontological and its moral reality a human person, and that, unless and until it is so understood, it will always fail to be correctly understood. By being reductively a person it is also, by that very fact, ontologically and morally a person. And this is what premise ten said above.

### *Moral Treatment of the Unborn*

From all the above it follows that the unborn is a person in all the senses that matter for being a person. For if the unborn are ontologically and morally persons they are simply or essentially persons. Their differences from the born or from adults in other respects, as in size, physical articulation, and maturity, cannot be of more than incidental significance. These differences cannot, that is to say, be of any significance as regards the question whether the unborn are persons, but only as regards the question, say, of how old they are as persons, and a difference in age between persons does not make any difference in essential being between persons. But if the unborn are persons, I mean simply and essentially persons, then they should be morally treated as persons, and the conclusion that they should not be aborted, for abortion will be murder, immediately follows.

Not much more, therefore, needs to be said in defense of the complex and involved argument about the personhood of the unborn. But to show how strong the position here developed is, I want to argue that even if some weakening is allowed in the claim that the unborn are persons the conclusion that it would be wrong to abort them would still follow. The weakening I have in mind deserves to be considered for two reasons. First, it is the sort of weakening that one would be inclined immediately to fall

back on if one balks at the strong claim, which I have defended at large above, that the unborn are fully or simply persons. Second, it is the furthest one could rationally go in weakening that claim. To go further would be to fall into manifest incoherence. So if, as I shall argue, the wrongness of abortion still follows on this weaker claim, then it will be rationally impossible, whatever one does to the claim that the unborn are persons, to deny that abortion is wrong.

The weakening I have in mind is this, that instead of saying that the unborn are persons simply one says that they are, as it were, *between* being and not being a person. I hasten to add that, for the reasons presented above, I think such a weak claim is false. I am allowing it here only for the sake of argument. So let us suppose, if only *per impossibile*, that the unborn are neither persons nor not persons, because they are merely becoming persons. Now what is interesting about this supposition is that how one is to treat it is decisively determined by whether we are entertaining it at a merely theoretical and ontological level or also at a practical one. What I mean here is this. When we are entertaining the supposition at the first or theoretical level and so without any practical concern, we may rest content with saying that the unborn is neither a person nor not a person but is only between being and not being a person. When our concern shifts, however, to the practical level then we cannot rest content merely with this. Rather we are forced, at this practical level, to come down on one side or the other of the question whether the unborn is a person or not. For we are here considering whether, in a given case, we should or should not perform the act of aborting some particular unborn. There are only two options here: either we abort or we do not abort. For certainly we cannot abort and also not abort. We cannot, that is, as we did in the theoretical case, split the

difference, so to speak, and do both.

Now abortion is, by definition, the deliberate killing of the unborn in the womb, and if we want to say that this is morally permissible, or at any rate that it is not murder, we have to say that deliberately killing the unborn is not *morally* different from deliberately killing, say, a cat or a cabbage or a mere lump of cells (whether human or not). But this is false. The unborn has a different being from a cat or a cabbage or a mere lump of cells. It is a person *in statu fiendi* while they are not. We cannot, therefore, regard our killing it as equivalent to killing them. We cannot, therefore, regard our killing it as being *tout court* not murder. So are we compelled, by a process of logical elimination, to regard our killing it as murder? Or is there some third option here? But how could there be? Either our killing the unborn is murder or it is not murder. But it can only not be murder if the being of the unborn is that of a cat or a cabbage or a lump of cells or something of the sort. But this is not its being. Therefore killing it is murder.

One might immediately object at this point that one could just as well play this argument the other way round. For since murder is the killing of a person, and the unborn is not a person (but only a person *in statu fiendi*), therefore killing it is not equivalent to killing a person and so is not equivalent to murder. Therefore killing it is not murder. Well, this might all be fair enough, and we might conclude, combining both arguments, that killing the unborn is neither murder nor not murder, if, in this practical matter, we could, as earlier in the theoretical one, sit on the fence and talk about a killing as being between murder and not murder in the same way as we can talk about the unborn as being between a person and not a person. But we cannot do that. There is no becoming to be inserted between a killing's being or not being a murder of the sort that can be inserted

between a thing's being and not being a person. An act of killing, while it becomes in the sense of taking time, does not become in the sense of being and not being a killing; so it does not become in the sense of being and not being a murder either (for it is a murder, if it is a murder, qua being a killing). It must, therefore, be one or the other. So which one is it in the case of killing the unborn?

Well, to say abortion is not murder would be to treat the unborn as deserving less than it does, for the unborn is a person *in statu fiendi* (unlike a cat or a cabbage), and to say abortion is murder would be to treat the unborn as deserving more than it does, for it is only a person *in statu fiendi* (unlike a developed adult). But to give the unborn less than it deserves would clearly be unjust, while to give it more than it deserves need not be unjust (acts of generosity and mercy, for instance, which go beyond desert, are not unjust). Therefore it would be unjust to say that abortion is not murder, and just, or not unjust, to say that it is. Therefore we must say abortion is murder.

Or at least that is what we must say at the level of morality. At the level of the law we might be able to say other things, or so I shall argue at the end (there are different degrees of murder and abortion may be some lesser degree of murder than killing an adult). For the moment, though, I wish to stress that we are only compelled to say that abortion is murder (on the grounds that it is the deliberate killing of a person) if we insist on saying or deciding anything at all here. But we may, if we wish, say or decide nothing. We may simply suspend judgment and refuse to commit ourselves as to whether the unborn is or is not a person and as to whether killing it is or is not murder. From the point of view, that is to say, of the ontology of becoming, such a suspension of judgment is permissible. For a person *in statu fiendi* is not, strictly speaking, in the logical space

where one or the other predicate of ‘person’ or ‘non-person’ must apply. Silence, therefore, is here logically permitted. Silence, however, is not logically permitted when we are faced with the practical question of the rightness or wrongness of a given act of abortion. We must, when deciding what to do, decide about the rightness or wrongness of what we are doing. Our deliberate acts must, when concretely realized, be morally permissible or not. They cannot fail to be one or the other. They are not, for instance, like a stone falling on someone’s head or a lion attacking a lone cyclist, where the killing is neither morally forbidden nor morally permitted but simply unfortunate or something of the sort. The moral context forces us to come down on one or the other side of the question about the personhood of the unborn and the morality of abortion. But then, if we must decide this question, it is clear that we must decide it by saying that the unborn is a person and that abortion is murder. The alternative is false. It is *morally* false, because to kill the unborn is not like killing a cat or a cabbage, which the alternative would make it to be; and it is *ontologically* false because the unborn is not a non-person like a cat or a cabbage, which the alternative would make it to be.

Perhaps I can sum up this argument about the moral status of abortion in the formula: *reduce and eliminate*. The moral context forces us, as metaphysicians sometimes say, to *reduce*, or *lead back*, the unborn and abortion into one or other category of person or non-person and of murder or non-murder. The moral context, unlike the theoretical context, prevents us from sitting on the fence and refusing to decide. But once the moral context has thus forced us into *reduction* to a category, it has also forced us into *elimination* of the negative category in each case. For *if* we are forced to say whether the unborn is a person or not, and *if* we are forced to say whether abortion

is murder or not, then we must eliminate the latter. That is why the unborn is a person and abortion is murder.

*Some Clarifications to the Basic Argument*

Before coming to the objections to the basic argument given at the beginning, a couple of further clarifications are in order. For, contrary to what some have supposed is true of arguments against abortion, the basic argument does not rely on any notion of the sanctity of life or on any notion of potentiality. These notions are not, to be sure, irrelevant nor are they to be rejected, but they are apt to give rise to confusion and complaints of verbal trickery if they are not used carefully and their several senses not properly sorted out.

Taking first the notion of the sanctity of life, one must be careful to keep in mind that the only proper use this term can have in the present context is to refer to the special status of human beings as human. It is meant to signify that human beings possess, precisely qua human, the dignity of persons such that deliberately to kill them, unlike deliberately killing animals and plants, counts as murder. It does not signify some special mystical or religious sense. It means nothing more, in fact, than the term 'dignity' means when people speak of the dignity of human life. If the term 'sanctity' adds anything over and above that, it does so only by drawing special attention to the evil of deliberately killing human life, namely that such evil is a grave injustice.

The grave injustice of murder is self-evident, and is not denied even by supporters of abortion. At any rate such supporters consider that the deliberate killing of adults counts, without further ado, as murder and as deserving the punishment due to murder, and they have expressly thought and stated this whenever abortionists, who are of course

adult human beings, have been deliberately killed. The gravity of killing is simply that it is worse than other injustices, such as theft, slander, lying, or adultery, because, among other things, these take away only parts (if important parts) of people's good while murder takes away all of it by taking away its indispensable condition or foundation.

Still, although all these facts about murder are self-evident, the nature of its injustice does admit of a fairly straightforward account. Justice is fundamentally giving each their due (or, as the Latin phrase has it, *suum cuique tribuere*), and it is self-evident that being deliberately killed is not what is due as from one human being to another. At least this is so to the extent that that other is innocent. I leave out of account here killing in war and judicial execution, not because I think it obvious that these are or can be just, but because they introduce complications that are not relevant to the issue of abortion. For whatever may be true about these cases of killing, my argument against deliberately killing the unborn will remain unaffected. At all events, if justice is giving each their due, and if being deliberately killed is not due to the innocent, then the deliberate killing of the innocent (which is the definition of murder) is necessarily unjust.

Now one might well ask why being deliberately killed is not due to the innocent and at this point an appeal to some idea of the sanctity of life might be in order. But this would only be an appeal to the sanctity of *human* life and only as regards relations between persons in their *deliberate acts* with respect to each other. A mountain lion that killed and ate a cyclist (as has unfortunately happened in some of the national parks in California) would not be guilty of an injustice; nor would the cyclist be a victim of injustice. Animals cannot properly be said to be capable of deliberate acts, as opposed to instinctive ones, and anyway killing and eating likely prey is what it is proper for a lion to

do. The cyclist is certainly a victim of misfortune and his death can be called a tragedy that should, ideally, have been averted. That is why we human beings take care to render wild beasts as harmless to humans as possible, whether by killing them, or confining them to cages, or ensuring that they do not venture where unarmed human beings (and in particular cyclists) are likely to be. We do this, no doubt, because we value human life and believe that threats to it should be minimized. But it would be pointless to think that the sanctity of human life is somehow relevant to explaining or understanding errant lions eating unwary cyclists. Sanctity of life has place only where justice has place, and justice has place only where deliberate human actions have place.

In view of all this, therefore, it might be better to speak less of *a right to life* and more of *a right not to be murdered*. For while lions can be said to kill (and in this loose sense be said to deprive a human being of his right to life), they cannot be said to commit murder. It might therefore also be better to focus our moral thinking less on how certain things should or should not be treated and more on how human beings should or should not behave. So human beings should not behave towards other human being as they may behave towards vegetables, say, or domestic or wild animals. Lions, by contrast, not being human and not being capable of morally responsible behavior, cannot be said to be subject to the like prohibitions or permissions.

Be that as it may, however, for, returning to the question of the sanctity of human life, we should say that the reason that being deliberately killed is something that is not due to an innocent human being is that no human being exists for the sake of another as if that other were his end. Human beings exist for their own sake or are their own ends. This is a common enough Kantian claim, but one does not have to be a Kantian to

recognize its truth. The fact that human beings are self-determining agents making their own choices is enough for the truth of the idea. The experienced phenomenon of choice is also enough for the truth of this idea, at least at the level of moral judgment and practice. One does not, that is to say, have to venture also into the metaphysics of the question and determine whether freedom is metaphysically real or not. Morality operates at a level from which metaphysical disputes can happily and without error be removed. Anyway this fact of being ends in themselves, and not mere tools of others, is also enough to separate human beings as a distinct class from other animals (or at least from most other animals, for perhaps some of them, as the higher primates for example, do have the beginnings of choice and may therefore deserve some special treatment from us). Finally, and importantly, this fact is enough to ground the prohibition on murder. For it is enough to ground the claim that no human being deserves to be treated as a means, and, of course, being treated as a means and not as an end is exactly what happens when one human being deliberately takes the life of an innocent other--whether innocent absolutely or relatively to the killer or to the time or the circumstances (which are matters for the philosophy or science of law to work out). It is also exactly what happens when one human being takes or steals the property of another. In both cases that other's life and possessions are treated as if they existed for the killer or the thief to do with as the killer or thief wishes, when of course this is precisely not the case.

Turning next to the other idea in question here, that of potentiality, the first thing to note is that it is multiply ambiguous and its several senses, to the extent they might be relevant to arguments about abortion, need to be carefully distinguished. For in one way almost anything could potentially be a human being. The minerals, vegetables, and

animals that we eat, and that, when digested, continually replenish our fleshly substance, are potentially human before we eat them, and so also, therefore, is the earth from which they come or in which they grow or on which they live. But it would be absurd to treat these sources of food as human because they are potentially human. By the same token it would be absurd to treat the unfertilized egg or the isolated sperm as human because they are potentially human. Admittedly egg and sperm are already human parts or human elements in a way that undigested minerals or vegetables or animals are not. But, even so, they are not human beings or human organisms--or not yet anyway. Their potentiality for becoming human beings is, to be sure, closer to realization, or they are not matter that is as remote, so to say, for this purpose as unharvested vegetables or unkilld animals, or even as cooked vegetables and animals. They are not human organs either (as the heart and lungs are such organs). Perhaps they should be called human residue, but residue of a particular sort; for they are of the sort that is constitutively instrumental in the creation of a new human organism (they form, when fused in the relevant way, the conceived child). They are certainly not residue as hair and nails are, or as urine and feces are.

Of course the kind of potentiality that is relevant to arguments about abortion is the potentiality that the already conceived egg or the zygote has. Here is where it is easy to fall into equivocation or confusion, because opponents and supporters of abortion are, in this context, not unnaturally inclined to use the term potentiality in different ways. If one says, for instance, that the zygote is potentially a human being in some general sense of potential, then this will prove nothing because, in this general sense, the isolated egg and sperm are potentially human beings, and so also are the vegetables and other sources of nutriment that, when digested, get formed into eggs and sperm. Moreover, if such

potentiality is taken to prove that the zygote is a human being, it will also prove that isolated eggs and sperm and food are human beings, which is patently absurd and not what any opponent of abortion wishes to maintain.

What then is the sense of potentiality that is used when it is said that the zygote is potentially human? My own judgment here, and it is the judgment that falls out of the arguments given above, is that the zygote is not potentially a human being. It is *actually* a human being. Indeed it is the first stage of actuality in the case of being a human being, or it is the first stage at which a human being is actual. The potentiality that the zygote has is not to be a human being (for it is already that), but to be a fully developed human being or an adult. Of course it is also potentially a newborn child, an infant, a toddler, a grade schooler, a teenager, and so on up to adulthood. But none of these unrealized potentialities that the zygote has make any difference to the moral status of deliberately killing it (whether they can or should make a difference to its *legal* status is something I will turn to at the end). Once a human being exists, at whatever stage of its existence (from cradle to grave, as we say, or from conception to grave, as we should more correctly say), deliberately to kill it counts as an injustice (it counts as treating a fellow human being in a way that is not due), and specifically as the injustice of murder.

To put the point another way, or rather to recall the way both the quick and simple and the complex and involved arguments put it, the zygote is substantially and radically a human being. The sort of thing it is, or the class of individual things to which it belongs, is the class of human beings. It is not a part of a human being (as hair or nails are); it is not an organ of a human being (as heart and lungs are); it is not an instrumental residue of a human being (as egg and sperm in separation are). It is a human organism or, that is to

say, a human being. What else it becomes, or what else it is on the way to being, or what further potentials it has, are not to its being a human being, but to its being a fully developed human being. The relation, in other words, that the zygote has to the adult it becomes is, ontologically and morally speaking, the same relation that the newborn has, or that the infant or the toddler has, or that the grade schooler or the teenager has. That it is murder deliberately to kill teenagers is manifest. That it is also murder deliberately to kill zygotes should, therefore, be equally manifest. For certainly a teenager does not become a human being when it becomes an adult, and we should believe the same about the zygote. The terms 'teenager' and 'zygote' are *substance* terms and indicate things in the same ontological category. Terms for natural living things cover a whole range of stages of development in the substantial things referred to, and we should not let this difference of terms mislead us into errors of ontology. The stages of development that natural living things undergo is not in substance but in additional features, such as size, shape, faculties, emotions, intellectual and moral habits, and the like.

There are, of course, many differences, both great and small, between adults and the unborn. Some of the differences of the former sort, while not absolving abortion from being murder, are yet important enough to deserve some immediate discussion. This discussion will require me to enter into natural theology (with a slight detour into revealed theology). In its perfect state, a person is an organic body actualized by a rational soul. By 'soul' here is not meant anything peculiarly mystical or fishy. 'Soul' is just the name for this actualizing, or energized structuring, of the body (it is what makes a living body to be living and not dead). It is just a name, that is, for a state of being of bodily matter. We might even say, therefore, that the soul is material, not because it is a

material thing (as the pineal gland, perhaps), but because it is *of* a material thing, namely the state of being alive of a material body. This state of being of matter exists at several levels. In some cases it is a purely nutritive state of being (as in plants, which just grow and generate), or also a sensitive state of being (as in animals, which also perceive), or also, and finally, a rational state of being (as in humans, which also think). Nothing further is implied, at least not yet and not by this alone, about the ontological independence of any soul, or of any such state of being of the body.

Now it may well be that the rational soul, or the rational state of being, is not achieved by the developing body of the unborn until rather late on in the pregnancy. The unborn will, of course, be alive before this point, but with a sensitive and nutritive soul or state of being that is *in statu evanescenti* (“in a state of disappearing”). Accordingly, the fact that the unborn do not yet have a rational soul does not mean that they are not yet human persons. A person, as said before, is, in its strict sense, an individual substance of a rational nature. It is not, therefore, in its strict sense, an individual substance with a rational soul. Provided the individual substance has, in some way, a rational nature, it is a person. But that is what even the zygote has, for it has rationality radically. It is an individual substance of a rational nature because it has the full genetic structuring of a rational being, namely a human being. Even its sensitive and nutritive soul is radically of a rational nature because, unlike the souls of plants and animals, its being is, as it were, to cease being and to be subsumed into the being of the rational soul. This is not true of the purely sensitive and nutritive soul of plants and animals, since these souls have no inbuilt ordination towards the rational soul. Hence they are not of a rational nature, while the soul of the zygote or the unborn is. Accordingly we will have to say that there is a certain

equivocity in the terms 'sensitive soul' and 'nutritive soul', since what these terms refer to in the case of plants and animals is only partially and not absolutely the same as what they refer to in the case of the unborn.

Nevertheless, if an unborn were to die before it had achieved its rational soul, its death would not involve the loss of a rational soul. The rational soul would simply never have come into existence. So if, as theology teaches, the rational soul does indeed have a certain ontological independence and departs, on the death of the body, to its maker, then, in the case of these unborn who die, there will be no rational soul departing to its maker. And this difference, while it cannot make a moral difference (for abortion at any stage of pregnancy is murder), could make a legal difference. Hence, for this as well as other reasons I will, at the end of this essay, turn to the legal question of abortion. Here I should add by way of aside, but without any argumentation because it would be irrelevant, that there is nothing in what I have just said that is incompatible with, or contrary to, the Christian doctrines of the Incarnation and the Immaculate Conception. On the other hand, there is nothing in these doctrines, or in any Christian doctrine, that requires one to hold that the rational soul is acquired later in pregnancy and not, say, at conception. As far as Christian teaching is concerned, this matter can be left open. That I have myself come down (though not definitively) in favor of some delay in the acquiring of the rational soul is not because I am trying to follow, or even to oppose, any contentions of theology. It is only because I think this to be the more reasonable view.

#### *Reply to Objections to the Basic Argument*

Now that these clarifications are in place, and now that the conclusion that the unborn are

persons has been established both by the quick and simple argument and by the complex and involved one, we can regard the basic argument presented at the beginning as fully established. So we can now return to the objections to that basic argument also made at the beginning and show how they are to be answered.

Note in the first place, however, that none of the standard arguments in favor of abortion can stand up against the basic argument. Appeals, for instance, to the so-called right to choose or to one's own body or to privacy beg the question by assuming that life in the womb is not human and that to kill it is not murder. But there is no right to commit murder, so if abortion is murder no one's right to choose or to their own body or to privacy, whatever other rights they give, can give a right to abortion. Not even in a case of rape can these rights give a right to abortion. If abortion is murder then to abort in a case of rape is still murder.

The usual counters to this, of course, are to say either that the life in the womb is not human or that, if it is human, it is not a person, and hence, further, that it is not protected by the prohibition on murder. These counters were, of course, the first in each case of the objections noted at the beginning to premises one and two of the basic argument. In answer, then, note that these objections misunderstand what murder is and what a person is. First, murder is by its standard definition the deliberate killing of innocent human life. So if the life in the womb is human aborting it is murder. Second, those who say that life in the womb is human but not a person identify personhood with the manifesting of certain properties or activities, as consciousness and reasoning in particular. But the falsehood of this supposition has been proved above. The unborn is a person in the same way, and for the same reason, as it is human. It is a human person *in*

*statu fiendi*. Hence it is of no consequence that it lacks thought or self-consciousness. For it possesses these too *in statu fiendi*. ‘Person’, being a substance-term and not a property-term, refers, not to certain properties, but to a certain kind of thing. This thing is indeed the kind of thing that, under suitable conditions, manifests the properties in question. But it will still be that thing whether or not it is now manifesting the properties (as when it is asleep for instance). Such is characteristic of a thing, that it remains what it is throughout changes of state and activity. Hence if ‘person’, being a thing-term, refers to the thing that is human, then human beings, regardless of what properties they do or do not manifest, are *ipso facto* persons. Third, the unborn, despite manifesting none of the properties of persons, possess these properties substantially or in their root, as has been argued at large above. For these properties are rooted in human nature, and genetics and embryology, as well as the metaphysics of becoming, show the unborn to be radically human. Contrary, therefore, to what is often said, one does not, in the case of the unborn, discover if they are persons from whether they have the properties. Rather one discovers if they have the properties from whether they are persons.

The second objection to premise one noted at the beginning was, that even if the unborn is human then, at least in some cases, it is not innocent (it is, if only despite itself, threatening the life of the mother and may be opposed and removed as a matter of simple self-defense against an aggressor). The answer to this second objection is as follows. First of all, on a practical point, self-defense could justify few if any of the abortions now actually performed. The number of pregnancies that pose a threat to the mother’s physical life so great that killing the child is necessary to save her is virtually nil. Second, killing in self-defense is not justifiable if one can save oneself without killing, and one could

save the mother's life by removing the child alive from the womb instead of by killing it as abortion does (recent medical advances are now, in fact, making it possible to preserve and bring to term outside the womb a child at almost any stage of its development).

Third, the relationship of mother to unborn child is not that of victim to attacker, which is what alone would justify killing in self-defense. Rather is it the relationship of giver to gift. The mother is giver of life to her child and the child is not only receiver of that gift but is even gift of new life in return to its mother. Such a relationship is perfected in the mother giving herself to her child to the uttermost, even unto death if need be, as comrades give themselves to each other unto death in danger and war. Certainly the mother must give herself wholly to her child after it is born, else the child will not grow and flourish. How then can she do less while it is still within her? To construe abortion as killing in self defense is to take a view of the relationship between mother and child that is inhuman and destructive of the notion of family. Note, however, by way of anticipation, that none of this entails anything about how the law should treat women who have abortions.

The objections to premise two, that the direct killing of innocent human life is murder, were, first, as just mentioned, that murder is really the killing of persons, not the killing of human beings merely; and consequently, second, that to kill the unborn is no different from removing life support from the comatose, which we do not regard as murder (the unborn are, it is said, like the permanently comatose in being only biologically human and lacking the thought and self-consciousness characteristic of persons). Of these objections, the first, that the unborn are human but not persons, has just been given and needs no further comment.

The second objection, the likening of killing the unborn to removing life support from the permanently comatose, is more complex because it labors under two errors. The first error is to suppose that the unborn are like the permanently comatose, at least if we mean by the latter those who are no longer persons. For if the latter have ceased to be persons then they are not persons at all, but the unborn, because they are persons *in statu fiendi*, are persons and should be treated as such. After all, an oak tree that has decayed and, though still standing, is dead has ceased to be an oak tree (save in name), while an acorn just planted is an oak tree *in statu fiendi* and should be treated as such. Hence, if it is not murder to remove life support from the permanently comatose, it does not follow that to do the same to the unborn is also not murder. The second error is to suppose that removing life support is the same as killing. For there is, as has long been realized, a difference between killing and letting die, and removing life support is the latter while abortion is the former. Hence the two cases are not the same. One must, nevertheless, be careful with this distinction, for though it is always an *act* distinction it is not always a *moral* distinction.

An act of letting die can be as much a murder as a direct killing, if, say, there is some moral obligation not to let die or if letting die amounts to criminal negligence or conspiracy or the like. There is, nevertheless, a moral point to the distinction because, at least sometimes, the fact that one's act was a letting die and not a killing absolves one from any moral guilt and may even confer merit. Let us suppose, then, as is indeed often the case, that there is no obligation to do more than one has already done to keep the permanently comatose alive. Let us even suppose that to do more to keep the comatose alive would prevent one from saving the life of someone else, even perhaps someone

whom one is under some obligation to save. Failing to remove the life support and going to the aid of this other person might thus be a moral wrong while doing so would be morally praiseworthy. Certainly in cases of war, for instance, where triage is required and one must leave the very badly wounded to die in order to give scarce resources and time to the wounded who stand a good chance of living, there is no murder involved in the way one treats the former but much merit involved in the way one treats the latter. By going off to help these others one does a good deed to them while one simply lets the very badly wounded die. One does not murder the badly wounded. On the other hand, one would murder them, and could be rightly accused of so doing, if one took a gun in one's hand and shot them. For that would be a killing and not a letting die. Here, then, is a clear case, one would think, of the distinction between killing and letting die being not only an act distinction but also a moral distinction.

The same is true in the case of the permanently comatose. It does not follow that just because one could morally remove life support from such patients one could therefore morally kill them. For suppose that after the removal of life support a given patient, unexpectedly, goes on living. Taking a gun and shooting him through the head does not thereby become the moral thing to do. Nor does some less bloody means of killing him become the moral thing to do. On the other hand, it might well turn out to be true (though I am not altogether convinced of this) that one could directly kill him without moral fault. For if the permanently comatose have indeed ceased to be persons and are just, shall we say, artificially preserved human tissue, then killing off this tissue would not count as murder (though it might perhaps be wrong in some other way). Nevertheless, the fact that this tissue was a human person, and was the relative or friend

of someone still living, does give one plenty of reason to treat it with a due of respect that one does not give, say, to pieces of discarded fingernail or hair or surgically removed tonsils and appendices. Certainly the tissue, like any corpse, should be given proper funeral rites. Perhaps, therefore, it ought not to be directly killed either. But whatever the truth of this may be, abortion is not at all like killing artificially preserved human tissue or removing life support from the permanently comatose. Abortion is, first, not a letting die but a direct killing, and second it is the killing of a person *in statu fiendi*. Hence it is murder, as already argued. Hence, further, the assimilation of abortion to the letting die of the permanently comatose is false.

The objection to premise three, that murder is wrong and not morally permissible, was that certain murders are right and morally permissible, or even morally obligatory. The examples were, first, deliberately killing one innocent person in order to save a greater number of other innocent persons from being deliberately killed, and, second, where there is a conflict of rights, as precisely in the case of abortion itself, where the mother's rights trump those of the child and permit the child to be directly killed for the sake of the mother.

The first example assumes the correctness of a consequentialist theory of ethics, namely that acts are right or wrong according to their consequences. Hence, it has no force against non-consequentialist theories of ethics. In the latter kind of theories, such as are deontological and rights theories, acts are wrong or not independently of their consequences; or, if consequences do play a role, this is only in the sense that bad consequences can make a permissible act wrong, not in the sense that good consequences can make a wrong act permissible. For instance, it is morally permissible to drink

alcohol. But it is not morally permissible to drink alcohol and then drive on the highway. This is not, of course, because there is anything wrong with drinking alcohol; it is because the foreseeable consequences of drinking alcohol when driving on the highway are very bad, namely the injury or death of oneself and others. On the other hand, it is always wrong to commit murder, and murder is wrong, on non-consequentialist theories, because of the nature of the act itself. Accordingly, even if a given act of murder happens to have good consequences (several other people are saved from being murdered), these consequences still do not make the act good. The reason is that the consequences do not change the nature of the act. So if the nature of the act stays the same, and if, because of this nature, the act is in itself wrong, the act will stay wrong regardless of how many good consequences it also happens to have.

Now all this, while it is sufficient to show that the first example will cause no problems for non-consequentialist theories of ethics, does nevertheless raise puzzles about the coherence of such theories. For if murder is so wrong that it should be prohibited, then a situation where more murders are committed would seem to be morally worse than a situation where fewer murders are committed; and if the aim of the moral injunction not to commit murder is to prevent murders, then to do what will make more murders come about would seem to be more opposed to morality than to do what will make fewer murders come about (even if to do the latter one must oneself commit murder). Since non-consequentialist theories accept the antecedents of these conditionals, they ought to accept the consequents as well. But they do not. In fact, they would seem to fall into a self-refuting paradox. For to refuse to commit any violations against a certain moral injunction, even when committing a violation would reduce the number of

violations, involves these theories in setting up some goal or end of pursuit, the good of not committing violations, and then refusing to do the action that will realize that end better than any other possible action.

Plausible though this reasoning appears, it is nevertheless fallacious. It misidentifies the wrongness of murder and so misidentifies what the goal of non-consequentialist morality is. As regards the wrongness of murder two points need to be made. First, what makes murder wrong is not the mere fact that death is a harm, or that it frustrates someone's interest or desire to live. Any death is a harm and a frustration in this sense, even a death that happens accidentally or because of some natural disaster or disease. Such deaths might be called sad and tragic, but they cannot be called wrong. Death and other harms are only wrong when they are inflicted deliberately by another rational being and contrary to what is due, that is, when an undue death or harm is expressly chosen by someone as the direct object of his act. But death is not due to the innocent; rather help and mutual regard are. So deliberately inflicting death on the innocent is an undue harm. It is a particular kind of injustice, since justice, as mentioned before, consists, in its most general idea, in giving each his due. That is why deliberately killing the innocent is wrong, and wrong in its very nature, regardless of the consequences.

Second, one must distinguish between a just agent, a just act, and a just state of affairs. A just state of affairs cannot exist in abstraction from just acts and just agents. A greater number of deaths, for instance, is not more unjust than a lesser number of deaths merely because more people are dead. It is more unjust, if it is more unjust, because more people are *unjustly* dead, and more people can only be unjustly dead if they died because

of some agent's unjust act. Of course, it is better to have a more just state of affairs than a less just one. But it does not thereby follow that a state of affairs where one murder is committed is better than a state of affairs where several murders are committed. For the term 'murder' is ambiguous. On the one hand the term can be used to mean the state of affairs where someone is dead through murder. On the other hand it can be used to mean the agent's act itself of murder and its wrongness. If, when judging the relative moral worth of states of affairs, one uses 'murder' only in the first way and ignores or forgets the second way, one can easily err in one's judgment. So, for instance, in the state of affairs where one commits a murder to prevent someone else committing more murders, there are indeed fewer murders in the sense of fewer people dead through murder, but that does not make this state of affairs morally better. In fact, properly considered, it makes it morally worse.

The reason is that, from the point of view of acts and agents, this state of affairs is more murderous and more unjust. For in the state of affairs where, as in the example given earlier, you commit murder to prevent the terrorist committing several murders, both of you are equally murderers and both treat murderously everyone involved. You who actually commit the murder are clearly a murderer and perform an unjust act. But the terrorist whom you thereby prevent from committing murders is no less a murderer and performs no less an unjust act. For he is party to that one murder, since he has induced you to commit it, and he intends to commit several murders directly himself should you refuse to comply. As regards everyone else involved, I mean those not murdered, both he and you are again murderers and unjust. For he obviously retains a murderous intention in their regard (that is how he gets you to comply with his wishes); and while you may

owe it to them to do what you can to save them, you do not owe it to them to kill another to save them. By doing so you are effectively making them accomplices to your murder. You sully the life you win for them with innocent blood and require them to accept it as the price of innocent blood. No just man could accept such an offer. To wish for life as a result of injustice is itself unjust since it is, in desire, to be party to that injustice. The just man would prefer death to life on these terms. The case is similar to being offered a gift by a friend who has stolen money in order to buy that gift. No just man would want such a gift, however desirable the gift might be. On the contrary, he would be offended by it.

In short, where someone commits murder to prevent another committing more murders, the result is murderous and unjust in every way. There is no redeeming moral feature about it at all. No just man, therefore, could possibly prefer it either as an abstract state of affairs or as himself being active in it. Nor is any non-consequentialist theory of ethics logically committed to preferring it. Such theories counsel the goal of justice in the sense of all agents living lives of just acts. But this goal, as shown, cannot be achieved by performing unjust acts, no matter what the circumstances may be. It can only be achieved by performing just acts always and everywhere. *Fiat iustitia, ruat caelum*: let justice be though the heavens fall. Or rather, *fiat iustitia ne ruat caelum*: let justice be lest the heavens fall. For it is absurd to think that anything really worthwhile could get worse by the performance of justice. Only those, like consequentialists, who prefer lesser things to justice, I mean things like physical life and satisfaction of interests, could think that the heavens were more important than justice, or could think that the heavens that may fall because of justice are better than the heavens that can only stand if there is justice.

The second example used against premise three to show that some murders are

right and morally permissible was where one right, that of the pregnant woman, trumps another, that of the child. This example is easier to dismiss than the first. It is sufficient to note that there can be no rights against justice. Rights are part of and flow from justice, else they could not be rights. Hence whenever a presumed right is found to be against justice, it is not a right after all, or not a right in this case. For instance, everyone, we say, has a right to life, liberty, property, and happiness. So everyone has a right to choose how to live, earn money, buy a house, raise a family, and so on. But no one has a right to do these things in any way at all. No one has a right to live by stealing others' earnings, robbing their houses, seducing their spouses, or kidnapping their children. For all these things are unjust and no one has a right to be unjust. Consequently no pregnant woman has a right to life or health or choice that could extend to include the right to aborting the unborn within her. Abortion, as already argued, is murder and so unjust. There can, therefore, be no right to abortion, and no woman's right to life or choice can give her such a right. Thus there can be no trumping of rights here of the sort the example claims.

### **B. What Abortion does to the Woman**

So much, then, for my argument against abortion based on what it does to the child. I turn now to my argument against abortion based on what it does to the woman.

The form of my argument here is a little more complex in its formal structure but its premises should be less hard to grasp. It runs as follows:

1. The idea of woman qua woman, in contrast to the idea of man qua man, is the idea of being bearer or generator within herself of new life

2. Pregnancy is the actual exercising of the idea of woman in this or that particular woman
3. Abortion is the deliberate ending of a pregnancy
4. Therefore abortion is the deliberate ending of the actual exercising of the idea of woman in this or that particular woman
5. The deliberate ending of the actual exercising of the idea of woman in this or that particular woman is an attack on the idea of woman qua woman
6. Therefore abortion is an attack on the idea of woman qua woman
7. An attack on the idea of woman qua woman is an attack on the dignity of woman qua woman
8. Therefore abortion is an attack on the dignity of woman qua woman

Of the several premises here, premise three is obvious since it is a matter of immediate definition. All the weight, and indeed all the controversy, of the argument rests, of course, on premise one, since the remaining three premises, namely two, five, and seven (along with the intermediate conclusions, four and six), depend on it for their truth. I will therefore deal first with premise one and then expound on the others as I proceed.

Note first, however, that this argument does not need to assume the conclusion of the previous argument about the wrongness of abortion. It is logically independent of, and does not need as a premise, the fact that abortion is murder. It does, to be sure, need the premise, which after all cannot be denied, that abortion in its essential idea is the deliberate killing of unborn life within the mother. If this unborn life has already died for

some independent reason, removing it, if it does not get expelled spontaneously, is, while medically necessary of course, not abortion. The unborn must still be alive if deliberately getting rid of it is to count as abortion. But, for the purposes of the present argument, nothing further needs to be assumed about the moral status of this unborn life or, consequently, about whether aborting it counts as murder or not.

The unborn life in question here, regardless of what we name it at its several stages and regardless of whether we regard it as already human or a person or not, is, nevertheless, how human life begins. All human beings have conception and life in the womb as their beginning. Even if we want to regard the sperm and unfertilized ovum as also in some sense the beginning of a human being (for while in separation sperm and ovum are not this beginning, when fused together they are), this is neither here nor there for the purposes of my argument. What I want to focus on is the beginning of human life that is the being conceived and sustained alive within the mother. Moreover this beginning has a special feature that needs to be noted with care, namely that it is unique to the woman. It is she, and not the man, who enjoys the privilege of being the bearer within herself of new life. Artificial wombs only confirm this claim. For they are just designed to do what women already by nature do and what women alone can by nature do. Woman is the archetype and measure here; art the imitator and measured.

Indeed, when it comes to speaking of woman and man in their proper difference, or when it comes to speaking of womanhood qua womanhood and of manhood qua manhood, it is this fact of being bearer of life within that marks them off from each other. Woman qua woman is defined, we might say, by this capacity to generate life within herself; while man qua man is defined by the capacity to generate life in another. Of

course women and men are much more than generators of new life, and it would be absurd to understand all their powers and acts by generation alone. But this power is that by which they are sexually differentiated, and it is only as being thus sexually different that there is need to single out and distinguish man and woman at all. For we cannot single out or distinguish them as human beings, and indeed the other ways in which we tend to single them out (as shape, strength, voice) are reducible to their primary sexual differentiation in generating new life. The idea of womanhood qua womanhood, in contrast to the idea of manhood qua manhood, is this idea of being generator and bearer within herself of new life.

It is important to stress the precision of the words here. The idea of woman as generator and bearer within herself of new life is a very narrowly circumscribed idea. It is focused on one aspect only of what women are. But this narrowness of focus is precisely what is needed in the present context. For this context is about women in their generative difference from men, that is to say, it is about their difference qua women from men qua men, and that is precisely a generative difference. There is no other difference that separates the two sexes as sexes, or what other differences there may be are reducible to this difference.

So much should, I think, be beyond dispute. I turn next, then, to premise two in the argument above. The truth of this premise follows from the truth of premise one, since it is really no more than a specification of premise one. However, its meaning too needs to be noted with care. For, of course, the claim is not that a woman is only a woman, or only fully a woman, when she is, or has been, pregnant. A woman who goes through her whole life never being pregnant is not, by that fact, any the less a woman; nor

is she less a woman than a woman who does become pregnant, whether once or several times. Nor, indeed, does this claim entail the claim that a man is only a man, or only fully a man, after he has fathered a child on a woman. On the contrary, a woman is a woman because she has by nature the power of being a bearer of children, and a man is a man because he has by nature the power of being a begetter of children. The point, rather, is the simple and obvious one that the actual exercising of this power, both on the part of man and woman, is the actual becoming and being pregnant of the woman.

But if premise two be thus granted then, of course, conclusion four follows without further ado. I come next, therefore, to premise five, which, with conclusion four, entails that abortion amounts to being an attack on, indeed a denial of, not this or that woman, but womanhood as such, or the very idea of woman. The point here is simply this. Abortion is an attack on this or that woman precisely where and when her womanhood is brought to fullest expression, namely in her body when she is pregnant and against her very being pregnant. This claim is, of course, obvious, so obvious indeed (it is involved in the definition of abortion) that it needs no argument. What is puzzling is why it has not attracted the attention it deserves, especially among those, like feminists, who take as their express goal promoting and defending the dignity of women. Certainly, one can hardly imagine a more direct and more thoroughgoing attack on that dignity than abortion, which, as conclusion six makes explicit, is an attack on the very idea of woman as such.

This conclusion is not altered by claims to freedom of choice or to rights over one's own body. For let it be that women--and men--have rights over their own body and are free to make their own choices in this regard. Still for a woman to make the choice of

abortion is for her to make the choice of denying her own womanhood. That this is her own free act about her own body (to the extent it is, for it may not be fully free in all cases) does nothing to lessen this denial; indeed it intensifies it, since it shows that the denial of her womanhood is deliberate and self-chosen and not forced on her from without or done in ignorance. The denial of one's womanhood is bad enough, but that it should be oneself who denies it instead of some hostile and alien other adds indignity to indignity and wrong to wrong.

There can be no hatred, one would think, as destructive as self-hatred and no denial of dignity as debilitating as self-inflicted denial. Yet this is what women do when they deliberately choose abortion. The now well documented facts about post-abortion syndrome are perhaps the best evidence here. The trauma that this syndrome inflicts on women is altogether soul-destroying and it can take years to mitigate or cure. And this is wholly to leave out the physical damage that abortion can also cause, from death to sterility to serious disease and injury. It is also to leave out the fact that this self-inflicted damage, physical as well as psychological, is wholly unnecessary, since medical science has so far advanced these days that neither pregnancy nor giving birth need pose a threat to any woman's life or health. The denial of womanhood thus involved in abortion would consequently seem to presuppose, on the part of those, of either sex, who support this medical practice, a hatred of women that is altogether extreme.

I hasten to add, of course, that actual women faced with actual choices of abortion are usually in such distress that they are not aware of, or, if aware, not able to act on, the proper dignity of their own womanhood. But while this mitigates considerably the responsibility they bear for what they are doing, it does not alter what they are doing. It

certainly does not alter what the abortionist is doing or what the woman's family or spouse or boyfriend may be doing in pressuring her to go ahead with the abortion. And that is my point. For regardless of all the subjective and emotional factors that are concretely involved in particular cases, the act of abortion, any act of abortion, considered in its full objective reality, is a direct attack on, a brutal denial of, a hostile malevolence towards, the dignity of the female sex.

### **C. Abortion and the Law**

However, to disarm at once any undue reaction to my immediately preceding remarks, I should stress that I do not believe (largely because of the intense psychological distress that women facing abortion typically suffer) that women should ever be subject to legal punishment because of an abortion. As this may seem paradoxical in view of the fact that I also believe abortion to be murder, I must now enter also, and finally, on the question of the law in relation to abortion.

The purpose of the law cannot be to impose perfect justice and virtue on the citizens. Moral perfection is certainly something that everyone should pursue and that the law too, insofar as it can, should promote. But the law is always a limited and indeed a blunt instrument. Its final sanction is never anything better than force, and while force can coerce, it cannot, by itself, educate or reform. Some basic willingness to be educated and reformed is required on the part of the one subject to the force, and force cannot guarantee that. No doubt force can help, because people forcibly denied their freedom naturally wish to escape this denial, if not for the present then certainly for the future. Punishment can, therefore, work as a deterrent and also, consequently, as a means of

reform. Most of the time, however, it probably never gets much beyond actual prevention from further crime of those forcibly coerced, and then only as long as it lasts. Coercion is of course often necessary. But it is hardly grand. Certainly it is not grand enough to have much role in dealing with something as complex as abortion.

We may, therefore, naturally ask whether the law should say anything about abortion at all. The thought that it should do so is naturally suggested by the arguments against abortion just given, for these show that abortion is murder of the unborn and violence against women, or even against womanhood. Abortion is therefore criminal, and indeed gravely so. But not every crime should be illegal, nor can every crime be corrected or prevented by the law. Moreover the peculiar circumstances of abortion, especially that it is the deliberate killing of new life *within the body* of another, which other, by that very fact, is typically suffering severe mental and emotional distress, make it especially inappropriate for legal sanctions. Perhaps, though, these circumstances do not make it inappropriate for legal determination. Let me explain.

In addition to, and indeed in advance of, its coercive power, the law has informative and educative power. It declares that such and such is a crime and so something not to be done. The law may even enter into some explication of why this is so. It can therefore spread abroad in public consciousness a certain instinctive tendency to shrink from doing what it thus labels a crime. Moreover it can do this independently of any sanctions that it may also threaten against those who nevertheless commit the crime. Particularly can it do this through its generation of what one might call social stigma. Through its declaring something to be criminal and forbidden it throws over the deed in question and over those who would commit it a certain public shame. This will not

prevent the crime, of course (even the threat of punishment cannot do that), but it will give most people extra pause and serve to prevent some of them, at least, from committing it. That is a gain much to be welcomed.

It is the sort of gain, in fact, that one can get from having a law forbidding abortion but giving it no sanctions. The judiciary in Germany did precisely this some years ago. It declared abortion to be a prohibited but sanction-less crime. This decision excited some ridicule at the time, but it contained a subtle wisdom. It deterred some from abortion by putting abortion into public shame, but at the same time it drew the sting out of the public debate. It gave the opposing sides a lot of what they wanted. For it gave the opponents of abortion the legal confirmation that abortion was a crime and forbidden, and it gave the supporters of abortion the freedom to go on having and performing abortions without threat of coercion from the state. No doubt each side would have preferred a complete victory over the other, but neither could complain too loudly about what they had received. The opponents of abortion were not so blood-thirsty or vengeful as to campaign to have all women who had abortions thrown into jail, and the supporters of abortion were not so in love with killing the unborn as to campaign to have the law not only let them do it but also congratulate them in the process.

Actually one could take the German example and supplement and improve it with related laws. In particular, one could distinguish kinds of abortion. For while most women who have abortions are likely too distressed to be considered deserving of punishment (the psychological and physical harms associated with abortion are anyway probably worse than any human punishment could be), doubtless there are others who have become so callous or hardened by the abortions they have had that they do deserve

punishment. Thus the law could have sanctions against some abortions but not others. After all, laws do not punish all murders of adults equally. Not only is there second and third degree murder, but there is also, in France at least, a special category of ‘crime passionnel’, where someone who has murdered their lover or spouse out of passion (jealous rage or a broken heart), can be acquitted of any wrongdoing. Perhaps a special ‘crime avortementel’ could, therefore, be invented along the same lines.

Further, there could be laws governing, not the woman who has the abortion, but the abortionists and clinics that do the aborting. Specially heavy obligations could be laid on them not only to provide fully adequate medical facilities with emergency backup, but also to give the woman, before she decides on the abortion, the fullest medical and psychological information available about its effects, long-term and short-term. The imposition of such obligations is very necessary anyway, even where abortion is legally permitted, because without it women can too easily be abused and taken advantage of. There would be no reason, of course, not to have legal sanctions to back up this kind of law, and the best sanction would probably be to give the woman the right to sue if any abortionist or clinic failed to fulfill these obligations. Indeed, such is already happening in the United States where some abortionists and clinics have been sued for precisely this sort of reason.

Another law worth considering, especially to help further inculcate in people’s minds the social stigma or shame under which abortion should lie, would be to confine abortion clinics (endowed still, of course, with all needed medical equipment and expertise) to those parts of towns and cities where other socially stigmatized and shameful things are practiced. I have in mind the legalized red-light districts of Hamburg

in Germany and Amsterdam in the Netherlands. If abortion clinics were also legally confined to such places, abortion would remain available to those who really wanted it but the extra shame attached to it would, much to their physical and psychological benefit, deter many women who now, because of the easy availability and social acceptance of abortion, are hurried into an act that they will spend their lives bitterly regretting.

There might be many other laws one could introduce to achieve equally beneficial effects for women. Certainly there is a rich field here for legal ingenuity. So let me end with one other suggestion. At the moment most laws concerning abortion, both in the US and elsewhere, say that it should be permitted for the sake of the life and health of the mother, where “life” and “health” are understood in the broadest possible sense. But this wording implies that pregnancy is a danger to the woman while abortion is not. The truth, however, is rather the reverse, for it is abortion that is really harmful to the woman. I have argued above that it is a fearsome assault on her dignity. But the psychological harms it can cause, as well as the physical harms, are hardly less severe. The harms associated with pregnancy, even if in rare cases these days they can include death, seem little in comparison. The wording of laws should therefore reflect this fact. Hence they should say, not that abortion is permitted for the sake of the life and health of the mother, but that abortion is permitted *except* for the sake of the life and health of the mother. Since this change may seem at first sight bizarre and its significance obscure, let me expand here on what I consider to be its special merits.

To begin with, laws worded like this will, from the educational point of view, be superior and more accurate, because they will put the threat to life and health in the right

place, namely in abortion and not pregnancy. Secondly, they will also have the beneficial and very necessary effect of forcing women and abortion clinics to take this threat with all the seriousness it deserves, which is something one fears they are not currently doing. Thirdly, such laws will not take away any of the legal right to abortion that abortion supporters insist on. For no abortion supporters could want, or at any rate could admit to wanting, abortions that cause women harm. They are not in favor of abortion for its own sake as if, despite its harms, it were a positive good (who but a blood-thirsty woman-hater could possibly be in favor of that?). They are only in favor of it because, or insofar as, it is necessary for the life and health of the woman. Well, laws phrased in the way I suggested above do nothing to prohibit such abortions. They only prohibit abortions that do the opposite, namely those abortions that nobody could sanely want anyway. Fourthly, there is no need that such laws should contain any sanctions against the woman who has the abortion. The only sanctions they would need would be against those who perform abortions and who, in doing so, fail to give the life and health of the woman the paramount importance it deserves. Fifthly, the effect of such laws would, in the long run, be to end abortions almost in their totality, and that for reasons which everyone must agree with. For if the harms of abortion are anything like what I have described above, then no abortion, however early or easily performed, will be without the most serious harms to the woman. Consequently every abortion will be an exception to these laws and so will not only not be permitted by them, but will also not be something that anyone could sanely want.

I flatter myself that this difference I suggest in the wording of abortion laws has not a little of the subtle wisdom of the German law mentioned earlier. Indeed, it might

have more of such wisdom. But I cannot be judge here in my own cause. I must leave this for others to decide. I would only insist that there is plenty of scope for imaginative thinking in the field of abortion law (if not indeed in law generally). The more such thinking is encouraged the better for all concerned, especially for women and the unborn they carry within them.