

Abortion

In my view, he said, it is clear that before it could be concluded that any enactment infringed the concept of security of the person it would have to infringe some underlying right included in or protected by the concept. The proposition that women enjoy a constitutional right to have an abortion is devoid of support in the language of Section 7 of the Charter or any other section. It cannot be said that the history, traditions and underlying philosophies of our society would support the proposition that a right to abortion can be implied in the charter.

Finally, he said in so far as it may be said that the administrative scheme of the Act has operated efficiently, a proposition which may be highly questionable, it is caused principally by forces external to the statute, the external circumstances being a general demand for abortion irrespective of the provisions of Section 251. It is not open to the courts in his view to strike down a statutory provision on this basis.

Prior to 1969, and indeed since that time, women in this country have been to a greater or lesser extent unduly deprived of their proper rights. The Charter goes a long way toward establishing in our minds, our laws, and in our hearts, that women are in the fullest sense of the word persons under the law. That principle was first established as recently as 58 years ago in the famous *Persons* case, in which my kinswoman took part.

However, we must also look at whether or not there is personhood in the unborn. I would like to look at two possible approaches to that particular consideration, one logical and one scientific. I quote first from the research paper *Is The Human Embryo a Person?* by John Gallagher of the Human Life Research Institute. He states:

The principle of economy states that one should not posit the existence of some further reality to explain phenomena when the phenomena can be explained just as well by the realities one already knows to exist. To posit the existence of this further reality which is not demanded by the phenomena is to go beyond the available evidence, to be fanciful rather than realistic.

To be a particular human person is to be a particular living organism. This human person began to live when this organism began to live. We can consider two possible explanations: first, that the human person begins to live at the time of fertilization; second, that the human person begins to live at some time later than fertilization. The first explanation is the more economical one. It holds that the phenomena are explained by the gradual changes which we know take place, without any change of first being in which a non-personal organism ceases to exist and a new organism, a human person, begins to exist. The second explanation posits the additional reality of this change in first being. Clearly we should hold to the first, more economical, explanation unless there is evidence requiring the positing of this additional reality, the change in first being.

Pretty heavy stuff but indeed science points in the same direction. Paul Ramsey has written:

Indeed, microgenetics seems to have demonstrated what religion never could; and biological science, to have resolved an ancient theological dispute. The human individual comes into existence first as a minute information speck, drawn at random from many other minute informational specks his parents possessed out of the common human gene pool. This took place at the moment of impregnation . . . Thus it can be said that the individual is

whoever he is going to become from the moment of impregnation. Thereafter, his subsequent development may be described as a process of becoming the one he already is. Genetics teaches that we were from the beginning what we essentially still are in every cell and in every human attribute.

Is abortion then wrong? Where is it that we are going in considering an unfettered access to abortion or even a reasonably available access to abortion? I quote now from an article by Mr. Richard Bastien who is the author of the book *La Solution Canadienne*. He says:

For freedom to remain alive, two ingredients are necessary. The first is the notion that we all are responsible for one another. This is a basic tenet of Western culture. From it we learn the importance of interdependence and the truth that the individual achieves his own fulfilment in service to others.

The second ingredient is the notion that every human life has an inherent value. This idea constitutes the basis for individual rights; it lies at the very heart of our political traditions.

The pro-choice stance is incompatible with both ideas. By asserting that abortion is a private matter, it denies we have any responsibility for each other. By defining life's value only in relation to society or those affected by a life, it denies life's inherent value. It is impossible to support a pro-choice position without at the same time arguing that certain human lives should be sacrificed to the privacy or convenience of others.

This is the utilitarian view of life, which holds that whatever solves a problem on the practical level must be considered acceptable. No action is right or wrong as such. The morality of an act is to be determined only by the desirability of its effect. In short, the end justifies the means.

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There are many in society who sincerely believe that because we have now a more and more pluralistic society in its origins and in its beliefs, therefore we must seek the lowest common denominator in our moral standards. I quote from a research paper done by a distinguished barrister and solicitor, Iain T. Benson, Chairman of the Civil Liberties Section of the British Columbia branch of the Canadian Bar Association. Benson writes:

The statement is sometimes made that Canada is a pluralistic country and that, therefore, one must acknowledge each person's differing beliefs.

As a recognition of Canada's multi-cultural make-up this statement is accurate; where it becomes unacceptable is when a valid recognition of cultural diversity is confused with *moral* pluralism. To postulate moral pluralism from ethnic and social diversity amounts to stating that because different groups have different cultural and ethnic beliefs and practices, *morality* is various and, therefore relative . . .

Throughout the centuries many of the greatest thinkers have discussed the importance of learning and preserving the central truths which define the society. These truths are not relative or subjective but transcendent. Michael Polanyi has written that:

. . . the adherents of a great tradition are largely unaware of their own premises, which lie deeply embedded in the unconscious foundations of practice . . . if the citizens are dedicated to certain transcendent obligations and particularly to such general ideals as truth, justice, charity, and these are embodied in the tradition of the community to which allegiance is maintained, a great many issues between, citizens and all to some extent, can be left—and are necessarily left—for the individual consciences to decide. The moment, however, a community ceases to be dedicated through its members to transcendent ideals, it can continue to exist undisrupted only by submission to a single centre of unlimited secular power.