

NOTES

Notes for Introduction

1. "Drama of Life Before Birth," *Life*, April 30, 1966; pages unnumbered, cited passage appears under the heading, "Fertilization."
2. J. A. F. Roberts, *An Introduction to Medical Genetics*, 3d ed. (London: Oxford University Press, 1965), 1.

Notes For Chapter One

1. This chapter depends greatly on two standard texts. One in human embryology: W. J. Hamilton, J. D. Boyd, and H. W. Mossman, *Human Embryology*, 3d ed. (Cambridge: W. Heffer & Sons, Ltd., 1962); the other in histology: Arthur W. Ham, *Histology*, 5th ed. (Philadelphia and Montreal: J. B. Lippincott Co., 1965). Another useful text is: Leslie B. Arey, *Developmental Anatomy: a Textbook and Laboratory Manual of Embryology*, 7th ed. (Philadelphia and London: W. B. Saunders Co., 1965). Lennart Nilsson, Axel Ingelman-Sundberg, and Claes Wirsén, *A Child Is Born* (New York: Delacorte Press, 1966), is a remarkable popular book on human embryology, distinguished especially by Nilsson's photographs.
2. The essentials of human genetics are well presented in: Victor A. McKusick, *Human Genetics* (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1964), chs. 2-5.
3. Ham, *op. cit.*, 100, points out that the genetic difference causes all human protein to differ specifically from that of any other species.
4. *Ibid.*, 152-155.
5. For a full discussion of the setting aside of future sex cells see: Emil Witschi, "Migration of the Germ Cells from the Yolk Sac to the Primitive Gonadal Folds," *Contributions to Embryology* (Carnegie), 32, No. 209 (March 30, 1948), 67-80. The youngest individual studied was a 13 somite embryo, about 24 days old, but Witschi suggests (69) there are even earlier, less differentiated stages of the germ cells.

6. The deck is very large indeed. Curt Stern, *Principles of Human Genetics* (San Francisco and London: Freeman, 1960), 78, tries to estimate the number of different possible sex cells and comes up with the figure 8,388,608 followed by 23 zeros! The immense total number of sperm produced by a man would be only one billion billionth of this figure according to Stern—not much chance of two being identical. (Of course, the two produced from the same meiosis in its last division would be identical.)

7. The concept of individuality is treated in the latter part of this chapter, under the heading "Twins."

8. Witschi, *op. cit.*, 78-79, argues very effectively the specialized, functional character of even the early sex cells.

9. For the essential information on fertilization see: C. R. Austin, *Fertilization* (Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1965).

10. Landrum B. Shettles, *Ovum Humanum* (New York: Hafner Publishing Co., 1960), 56-58, shows experimental evidence that many sperms enter the ovum, though only one accomplishes nuclear fusion. Of course, this is *in vitro*.

11. A good treatment of activation is found in: B. I. Balinski, *An Introduction to Embryology*, 2d ed. (Philadelphia and London: W. B. Saunders Co., 1965), 117-122.

12. Hamilton *et al.*, *op. cit.*, 43, points out that "ovum" theoretically should not be used after cell division begins, but it is used loosely to refer to the early stages of development.

13. Arthur T. Hertig, John Rock, Eleanor C. Adams, and William J. Mulligan, "On the Preimplantation Stages of the Human Ovum: A Description of Four Normal and Four Abnormal Specimens Ranging from the Second to the Fifth Day of Development," *Contributions to Embryology* (Carnegie), 35, No. 240 (Oct. 5, 1954), 199-220.

14. Balinski, *op. cit.*, 40-171 and 498-537, considers the problem mostly with reference to lower forms of life. James Bonner, *The Molecular Biology of Development* (New York: Oxford University Press, 1965), treats the question and provides extensive bibliography. Ham, *op. cit.*, 152-155, gives a brief and clear introduction to the question; bibliography, 160-161.

15. Hamilton *et al.*, *op. cit.*, 69-71.

16. See R. F. White, A. T. Hertig, J. Rock, and E. Adams, "Histological and Histochemical Observations on the Corpus Luteum of Human Pregnancy with Special Reference to Corpora Lutea Associated with Early Normal and Abnormal Ova," *Contributions to Embryology* (Carnegie), 34, No. 224 (Sept. 5, 1951), 55-73; conclusions on 73.

17. Frank E. Hytten and Isabella Leitch, *The Physiology of Human Pregnancy* (Oxford: Blackwell, 1964), 146-147 and 159-163, provide a summary.

18. Jack Davies, *Human Developmental Anatomy* (New York: Ronald Press Co., 1963), 269-281, presents in convenient form a "timetable of human development" with references to primary sources for each stage.

19. Thus the distinction of stages and Streeter horizons summarized *ibid.*

20. *Ibid.*, 270, gives the size of the chorionic sac of an embryo estimated to be 13-15 days as 1-2 mm.

21. Ham, *op. cit.*, 911-927.

22. Davies, *op. cit.*, 271, states that embryos estimated to be 20-21 days are 5-15 mm. (chorionic sac) with embryo proper 1-1-1/2 mm.—1/25-1/16 inch.

23. *Ibid.*, 281, provides a graph (from Streeter) of development in size. A 28-day embryo ranges from 4-6 mm; at 6 weeks (43 days, give or take one), 19-26.4 mm. (25.4 mm. = 1 inch). One often sees the size of the 6-week embryo given as 1/2 inch; there are different ways of measuring the embryo (either full length or crown-rump length) as well as of dating it (either from menstruation or from conception) that explain these differences.

24. Species differ in germ cells, fertilization, cell cleavage, implantation, and the precise steps of development of the embryo and associated structures. Using the electron microscope, observers have described marked differences among diverse species of embryos before implantation: A. C. Enders and S. J. Schlarfke, "The Fine Structure of the Blastocyst: Some Comparative Studies," *Ciba Foundation Symposium: Preimplantation Stages of Pregnancy*, ed. G. E. W. Wolstenholme and Maeve O'Connor (Boston: Little, Brown, and Co., 1965), 29-59, at 45. Any study of comparative embryology makes differences clear; Hamilton *et al.*, *op. cit.*, 435-468, concludes with a synoptic chapter of this topic including (454-457) schemes comparing stages of implantation and membrane formation of six other mammals with those of man.

25. Gavin de Beer, *Embryos and Ancestors*, 3d ed. (Oxford: Clarendon Press, 1958), presents the evidence which demolished Haeckel's theory and outlines the more complex situation that actually obtains; see, especially, 52-62, on "deviation." Nilsson, Ingelman-Sundberg, and Wirsén, *op. cit.*, shows photographically (70-71) how obviously human the embryo is at 8 weeks; the text clearly explains (50-51) how and why the embryo has been a human being since conception.

26. Some neurologists have thought that the cerebral cortex is not functional at birth, but recent research tends to prove them wrong; for a useful summary, see Roger Robinson, "Cerebral Function in the Newborn," *Developmental Medicine and Child Neurology*, 8 (October 1966) 561-567.

27. Arey, *op. cit.*, between 106-107, provides in tabular form an outline useful for the later stages.

28. Hamilton *et al.*, *op. cit.*, 367-368, state the problem in summary form.

29. *Ibid.*, 322-323.

30. See M. C. H. Dodgson, *The Growing Brain: an Essay in Developmental Neurology* (Bristol: John Wright and Sons, Ltd., 1962), 207-211.

31. Robinson, *loc cit.*, also provides references to more formal evidence.

32. The following is from Davenport Hooker, "Early Human Fetal Behavior, with a Preliminary Note on Double Simultaneous Fetal Stimulation," *Research Publications: Association for Research in Nervous and Mental Disease*, vol. 33, *Genetics and the Inheritance of Integrated Neurological and Psychiatric Patterns*, ed. Davenport Hooker and Clarence C. Hare (Baltimore: Williams and Wilkins Co., 1954), 98-113. Hooker uses menstrual ages; we translate to ovulation (approximate fertilization) ages.

33. Hamilton *et al.*, *op. cit.*, 367.

34. Hooker, *op. cit.*, 112.

35. See Charles R. Noback and Robert J. Demarest, *The Human Nervous System: Basic Elements of Structure and Function* (New York: McGraw-Hill Book Co., 1967), 198.

36. *Ibid.*, 44.

37. For a detailed treatment of the whole topic see W. Njoordenbos, *Pain: Problems Pertaining to the Transmission of Nerve Impulses which Give Rise to Pain* (Amsterdam, London, New York, and Princeton: Elsevier Publishing Co., 1959), 49-67. That unmyelinated fibers conduct impulses that give rise to pain: 66.

38. That the modality of pain develops is suggested by several participants in *Pain: Henry Ford Hospital International Symposium*, ed. Robert S. Knighton and Paul R. Dumke (Boston: Little, Brown and Co., 1966), 4 (Graham Weddell) and 33-37 (William F. Collins, Frank E. Nielsen, and C. Norman Shealy). The latter is particularly interesting, because it indicates that unbearable pain can arise from unmyelinated fiber.

39. Austin, *op. cit.*, 19-22. For a fuller treatment see R. A. Beatty, *Parthenogenesis and Mammalian Development* (Cambridge: Cambridge University Press, 1957).

40. Beatty, *op. cit.*, 20, 110; Balinski, *op. cit.*, 119-122. Both authors treat the report of a fully developed parthenogenetic rabbit with reserve; Austin, *loc cit.*, also states there is no sure evidence of natural parthenogenetic development to maturity in any mammal.

41. Beatty, *op. cit.*, 20-28, casts considerable doubt on whether this mode of parthenogenesis goes beyond the earliest stages in any mammal. We might ask whether such development, predestined from the beginning to be abortive, can really be considered the development of a new individual of the given species at all. Perhaps we should say that it is only if the normal process of differentiation characteristic of the species begins.

42. *Ibid.*, 101.

43. Hamilton *et al.*, *op. cit.*, 151-152; A. A. Zimmerman, "Embryologic and Anatomic Considerations of Conjoined Twins," in *Conjoined Twins*, ed. Daniel Bergsma, *Birth Defects Original Article Series*, 3 (April, 1967), 18-21.

44. Hamilton *et al.*, *op. cit.*, 152.

45. *Ibid.*

46. Luigi Gedda, *Twins in History and Science* (Springfield, Ill.: Charles C. Thomas, 1961), 125, outlines this supposition without providing any references to the sources in which it is originally presented.

47. Leo Loeb, *The Biological Basis of Individuality* (Springfield, Ill.: Charles C. Thomas, 1945), 3-26.

48. Hamilton *et al.*, *op. cit.*, 152-156; Gedda, *op. cit.*, 100-118.
49. Beatrice Mintz, "Experimental Genetic Mosaicism in the Mouse," *Ciba Foundation Symposium: Preimplantation Stages of Pregnancy*, 194-207; Andrzej K. Tarkowski, "Embryonic and Postnatal Development of Mouse Chimeras," *idem*, 183-193.
50. Tarkowski, *op. cit.*, 190.
51. R. A. Willis, *The Borderland of Embryology and Pathology* (Washington: Butterworth, 1962), 442-462, at 458-460; Arey, *op. cit.*, 180. Arey's book is especially helpful for seeing the relations between monsters and normal development.
52. K. M. Laurence, "Abnormalities of the Central Nervous System" in *Congenital Abnormalities in Infancy*, ed. A. P. Nomman (Oxford: Blackwell, 1963), 22-24.
53. C. O. Carter, "Incidence and Aetiology," in *Congenital Abnormalities in Infancy*, 8-9.
54. *Ibid.*, 9-16.
55. Austin, *op. cit.*, 109-123.
56. David H. Carr, "Chromosome Anomalies as a Cause of Spontaneous Abortion," *American Journal of Obstetrics and Gynecology*, 97 (Feb. 1, 1967) 283-293, at 291.
57. *Ibid.*, 290-291.
58. Carl L. Erhardt, "Pregnancy Losses in New York City, 1960," *American Journal of Public Health*, 53 (Sept., 1963) 1337-1352, at 1351.
59. Sam Shapiro, Ellen W. Jones, and Paul M. Densen, "A Life Table of Pregnancy Terminations and Correlations of Fetal Loss," *The Milbank Memorial Fund Quarterly*, 40 (Jan., 1962) 7-45.
60. *Ibid.*, 13.
61. The popular treatise was: George W. Corner, *Ourselves Unborn: an Embryologist's Essay on Man* (New Haven: Yale University Press, 1944), 121. The conclusion is presented in the context of ridicule of religious beliefs about the soul. The original article was: "The Problem of Embryonic Pathology in Mammals, with Observations upon Intrauterine Mortality in the Pig," *American Journal of Anatomy*, 31 (May, 1923) 523-545.
62. Hertig, Rock, Adams, and Mulligan, *op. cit.*, 219-220, comment on the proportion of abnormal specimens.
63. Earl T. Engle, ed., *Pregnancy Wastage* (Springfield, Ill.: Charles C. Thomas, 1953), Arthur T. Hertig, "Discussion," 18-26.
64. *Ibid.*, 18 and 23.
65. *Idem*, Christopher Tietze, "Introduction to the Statistics of Abortion," 141; Vasilos G. Valoras, "Discussion," 143.
66. United Nations, Department of Social Affairs, Population Division, *Foetal, Infant and Early Childhood Mortality*, vol. 1, *The Statistics* (New York: United Nations, 1954), 15. This section was written by Dr. Tietze (see p. iii).
67. *Ibid.*, 51; individual author not stated.
68. Arthur T. Hertig, John Rock, and Eleanor C. Adams, "A Description of 34 Human Ova within the First 17 Days of Development," *American Journal of Anatomy*, 98 (May, 1956) 435-459.
69. Arthur T. Hertig, "The Overall Problem in Man," *Comparative Aspects of Reproductive Failure*, ed. Kurt Benirschke (New York: Springer-Verlag, 1967), 27.
70. *Ibid.*
71. A. T. Hertig, John Rock, E. C. Adams, and M. C. Menkin, "Thirty-four Human Ova, Good, Bad, and Indifferent, Recovered from 210 Women of Known Fertility," *Pediatrics*, 23 (Jan., 1959) 202-211, present the same material a little more clearly than in Hertig's latest treatment. The diverse conclusions Hertig has drawn from the same material make one doubt the logic. In this 1959 treatment, it is stated (207) that the rate of fertilization is an estimate, based on comparison with other species; the rate could be as low as 58 percent. It is also stated that 75 percent of fertilized sows' ova proceed to viable birth. The assumed abortion-rate after the first two weeks is theoretical, high, and only a possible limit (211). Shapiro, Jones, and Densen, *op. cit.*, 7-45, found evidence of only 14.2 percent fetal mortality; Hertig's figure asks us to assume that in their careful study almost as many more pregnancies that caused a delayed or missed menstruation nevertheless went unnoticed.
72. Hertig, "The Overall Problem in Man," 30-32.
73. Assuming Hertig's figures (*ibid.*, 27) which consign about 15 percent of the ova to non-fertilization and 35 percent to birth, 50 percent would die. Of those that die, then, 20-30 percent would die before implantation; 56-66 percent between implantation and menstruation; 14 percent

during the remainder of pregnancy. (These percentages are double those Hertig gives for the total number of ova, which includes those not fertilized and those that survive.)

74. Carl L. Erhardt, Govind B. Joshi, Frieda G. Nelson, Bernard H. Kroll, and Louis Weiner, "Influence of Weight and Gestation on Perinatal and Neonatal Mortality by Ethnic Group," *American Journal of Public Health*, 54 (1964) 1841-1855. The better survival rates of the non-white infants are an unsolved puzzle.

75. Though not yet undertaken seriously, the project of an artificial womb to which an infant's umbilical cord could be hooked up is discussed among experts. Though considered technically feasible, the project would be expensive and not very practical, since the infant would have to be removed surgically from the natural uterus. Research tending toward the project has been reported: Geoffrey Chamberlain, "An Artificial Placenta," *American Journal of Obstetrics and Gynecology*, 100 (1968) 615-626.

Notes for Chapter Two

1. A. J. Rongy, *Abortion: Legal or Illegal?* (New York: Vanguard Press, 1933), 103.
2. Frederick J. Taussig, *Abortion, Spontaneous and Induced: Medical and Social Aspects* (St. Louis: C. V. Mosby, 1936), 24-26.
3. *Ibid.*, 388.
4. *Ibid.*, 366-367.
5. Jerome E. Bates and Edward Zawadzki, *Criminal Abortion: a Study in Medical Sociology* (Springfield, Ill.: Charles C. Thomas, 1964), 3 and 10. Alan F. Guttmacher, Executive Director of Planned-Parenthood Federation of America, gives this book his executive blessing by supplying a Foreword in which he says that illegal abortions are estimated at anywhere from 200,000 to 2,000,000 per year (p. vii). Shades of Rongy!
6. Bates and Zawadzki refer to Regine K. Stix, "A Study of Pregnancy Wastage," *Milbank Memorial Fund Quarterly*, 13 (1935), 347-365; the later article is Regine K. Stix and Dorothy G. Wiehl, "Abortion and the Public Health," *American Journal of Public Health*, 28 (1938) 623.
7. Glanville Williams, *The Sanctity of Life and the Criminal Law* (New York: Alfred A. Knopf, 1957), 209.
8. *Ibid.*, 207-208.
9. Russell S. Fisher, "Criminal Abortion," in Harold Rosen, ed., *Therapeutic Abortion: Medical, Psychiatric, Legal, Anthropological, and Religious Considerations* (New York: Julian Press, 1954), 3-6.
10. John Harlan Amen, "Obstacles to Legal Control of Criminal Abortions," in *The Abortion Problem, Proceedings of the Conference Held Under the Auspices of the National Committee on Maternal Health, Inc., June 19th-20th, 1942* (Baltimore: Williams and Wilkins, 1944), 139.
11. Halbert L. Dunn, "Frequency of Abortion, Its Effects on Maternal Mortality Rates," in *idem*, 10.
12. P. K. Whelpton, "Frequency of Abortion, Its Effects on the Birth Rates and Future Population of America," in *idem*, 18-19.
13. *Op. cit.*, 5.
14. "Discussion," in *idem*, 28-29.
15. *Ibid.*, 29-30.
16. Dorothy G. Wiehl, "A Summary of Data on Reported Incidence of Abortion," *Milbank Memorial Fund Quarterly*, 16 (1938) 80-88.
17. Dr. Tietze is a member of the Board of Directors of the Association for the Study of Abortion, Inc., the leading organization promoting revision of anti-abortion laws in the U.S.
18. Department of Social Affairs, Population Division, *Foetal, Infant and Early Childhood Mortality*, vol. 1: *The Statistics* (New York: United Nations, 1954), 20-21. This publication is catalogued under "United Nations"; Christopher Tietze is credited in the Foreword (p. iii) with authorship of the section in question.
19. *Ibid.*, 22-23.

20. Paul H. Gebhard, Wardell B. Pomeroy, Clyde E. Martin, and Cornelia V. Christenson, *Pregnancy, Birth and Abortion* (New York: John Wiley & Sons, Inc., 1958).
21. *Ibid.*, xii.
22. *Ibid.*, 14.
23. *Ibid.*, 29, table 13.
24. David C. Wilson, "The Abortion Problem in the General Hospital," in Rosen, ed., *op. cit.*, 190.
25. Gebhard *et al.*, *op. cit.*, 196. Note that abortions due to ectopic pregnancy were excluded to arrive at the ratio of 1:50.
26. Mary Steichen Calderone, ed., *Abortion in the United States: a Conference Sponsored by the Planned Parenthood Federation of America, Inc.* (New York: Hoeber-Harper, 1958), 178-180. The committee included Gebhard, who replaced Kinsey after the latter's death, Alan Guttmacher, P. K. Whelpton, Carl Erhardt, and Irene Taeuber.
27. P. K. Whelpton and Clyde V. Kiser, "Social and Psychological Factors Affecting Fertility," *Milbank Memorial Fund Quarterly*, 26 (1948) 182. The committee cites 3.1 percent terminated in induced abortion, but the article states only 2.2 percent ended by criminal abortion.
28. Dorothy G. Wiehl and Katherine Berry, "Pregnancy Wastage in New York City," *Milbank Memorial Fund Quarterly*, 15 (1937) 236. The percentage of therapeutic abortions is not stated.
29. Calderone, ed., *op. cit.*, 211-217.
30. Robert G. Potter, Jr., "Abortion in the United States," *Milbank Memorial Fund Quarterly*, 37 (1959) 94.
31. Calderone, ed., *op. cit.*, 181-184.
32. Alan F. Guttmacher, "Discussion," in *Population Dynamics: International Action and Training Programs*, Minoru Muramatsu and Paul A. Harper, eds. (Baltimore: Johns Hopkins Press, 1965), 171.
33. Gebhard *et al.*, *op. cit.*, 29, table 13.
34. Calderone, ed., *op. cit.*, 179.
35. Williams, *op. cit.*, 210.
36. Bernard M. Dickens, *Abortion and the Law* (Bristol: Macgibbon & Kee, Ltd., 1966), 83.
37. Williams, *loc. cit.*
38. Dickens, *op. cit.*, 81.
39. Williams, *loc. cit.*
40. Keith Simpson, *Forensic Medicine*, 2 ed. (London: Edward Arnold & Co., 1952), 166.
41. Williams, *loc. cit.*
42. Eustace Chesser, "The Law of Abortion," *Medical World*, 72 (1950) 495.
43. Alice Jenkins, *Law for the Rich* (London: Victor Gollancz, Ltd., 1960) tells (21-29) about the development of A.L.R.A. and (68) about recruiting Dr. Chesser. The introduction for this book was written by Williams; he refers (11) to A.L.R.A. as a "pressure group."
44. Williams, *loc. cit.*
45. Albert Davis, "2,665 Cases of Abortion," *British Medical Journal*, 2 (1950) 124.
46. Williams, *loc. cit.*
47. C. B. Goodhart, "The Frequency of Illegal Abortion," *Eugenics Review*, 55 (1963-64) 200.
48. Council of the Royal College of Obstetricians and Gynaecologists, "Legalized Abortion: Report," *British Medical Journal*, 1 (1966) 850-851.
49. Dickens, *op. cit.*, 83.
50. Leopold and Rudiger Breitenecker, "Abortion in the German-Speaking Countries of Europe," *Western Reserve Law Review*, 17 (1965) 555.
51. Calderone, ed., *op. cit.*, 210.
52. Anne-Marie Dourlen-Rollier, *La vérité sur l'avortement* (Paris: Librairie Maloine, S.A., 1963), 75. The conclusion reached concerning the number of abortions overall—that it equals live births—is derived from hospital statistics and surveys, but the conclusion does not seem to follow arithmetically.
53. Rolando Armijo and Tegualda Monreal, "Epidemiology of Provoked Abortion in Santiago, Chile," in Minoru Muramatsu and Paul A. Harper, eds., *op. cit.*, 147-148.
54. Vera Skalts and Magna Norgaard, "Abortion Legislation in Denmark," *Western Reserve Law Review*, 17 (1965) 505. Tietze, in the United Nations report (*Foetal, Infant and Early Childhood Mortality*, 20) accepted the evidence of the increase of illegal abortions in Denmark.

55. Skalts and Norgaard, *op. cit.*, 519. The apparent decline in the last decade of course may only show that miracle drugs are cutting the rate of hospitalization after illegal abortion.

56. Gebhard *et al.*, *op. cit.*, 228.

57. *Ibid.*, 224. Tietze, *loc. cit.*, accepted evidence that the proportion of illegal abortion was in the same range in 1944 as in 1930. For later years see: Per Aren, "On Legal Abortion in Sweden: Tentative Evaluation of Justification of Frequency during the Last Decade," *Acta Obstetricia et Gynecologica Scandinavica*, 37, Supp. 1 (1958) 13.

58. Council of the Royal College of Obstetricians and Gynaecologists, *op. cit.*, 851. Williams, *op. cit.*, 241-243, notes the evidence concerning Sweden, but seems not to be concerned about the inconsistency between the facts and his argument in favor of legislation similar to Sweden's on the ground that there are large numbers of criminal abortions.

59. Alan F. Guttmacher, "The Legal and Moral Status of Therapeutic Abortion," *Progress in Gynecology*, 4 (1963), 296.

60. K.-H. Mehlan, "The Socialist Countries of Europe," in Bernard Berelson *et al.*, eds., *Family Planning and Population Programs* (Chicago and London: University of Chicago Press, 1966), 207-210.

61. *Ibid.*, 209.

62. *Ibid.*, 211.

63. Christopher Tietze, "Some Facts about Legal Abortion," in Roy O. Greep, ed., *Human Fertility and Population Problems* (Cambridge, Mass.: Schenkman Publishing Co., 1963), 232. In a paper, "Abortion in Europe," presented at the Annual Meeting of the American Public Health Association, Oct. 31, 1966, Dr. Tietze said with reference to Eastern Europe: "There can be no doubt that the number of illegal abortions has been dramatically reduced, but they have not entirely disappeared even in countries, such as Hungary, where abortion is available on request."

64. Council of the Royal College . . . , *loc. cit.*

65. K.-H. Mehlan, "The Effects of Legalization of Abortion," in I.P.P.F., *Proceedings of the Third Conference for Europe, Near East, and Africa, Warsaw, Poland, June 5-8, 1962*, Inter. Cong. Ser. No. 71 (Amsterdam: Excerpta Medica Foundation, 1963), 212-214.

66. J. Herak-Szabo, "Legal and Illegal Abortion in the People's Republic of Croatia," I.P.P.F., *op. cit.*, 222.

67. E. Laudanska, "The Effects of Legalization of Abortions," I.P.P.F., *op. cit.*, 226.

68. Gebhard *et al.*, *op. cit.*, 197-198; especially 197, note 30.

69. *Ibid.*, 198-199.

70. *Ibid.*, 199-203.

71. Bates and Zawadzki, *op. cit.*, 202.

72. *Ibid.*, 40.

73. *Ibid.*, 61.

74. *Ibid.*, 51-77.

75. Calderone, ed., *op. cit.*, 59-63.

76. Lawrence Lader, *Abortion* (Indianapolis, New York, Kansas City: Bobbs-Merrill Co., 1966), 51.

77. Paul Ferris, *The Nameless: Abortion in Britain Today* (London: Hutchinson, 1966), 93-110.

78. Lader, *op. cit.*, 56-57; *CBS Reports*, "Abortion and the Law," April 5, 1965.

79. Lader, *op. cit.*, 57-59.

80. Bates and Zawadzki, *op. cit.*, 42-43.

81. Leon Parrish Fox, "Abortion Deaths in California," *American Journal of Obstetrics and Gynecology*, 98 (1967) 649. Abortions listed as spontaneous, or for which the agent is not stated, must be omitted.

82. Williams, *op. cit.*, 153-154.

83. Moya Woodside, "The Woman Abortionist," in *Abortion in Britain: Proceedings of a Conference held by the Family Planning Association at University of London Union on 22 April 1966* (London: Pitman Medical Pub. Co., Ltd., 1966), 35-38.

84. Lader, *op. cit.*, 44-46.

85. Margaret Witte Moore, *Abortion: Murder or Mercy?* (Greenwich, Conn.: Fawcett Publications, Inc., 1962), 8-20.

86. Gebhard *et al.*, *op. cit.*, 198-199.
87. Bates and Zawadzki, *op. cit.*, 37.
88. *Ibid.*, 35-38.
89. *Ibid.*, 126-127.
90. *Ibid.*, 95.
91. *Ibid.*, 80.
92. Carl Müller, "The Dangers of Abortion," *World Medical Journal*, 13 (1966) 78-80.
93. Fredric Wertham, *A Sign for Cain: an Exploration of Human Violence* (New York and London: The Macmillan Co., 1966), 153-191.
94. Gebhard *et al.*, *op. cit.*, 166, with references to other studies.
95. Calderone, ed., *op. cit.*, 55.
96. Gebhard *et al.*, *op. cit.*, 164-165.
97. Dunn, *op. cit.*, 10.
98. Gebhard *et al.*, *op. cit.*, 180-181.
99. *Ibid.*, 78, table 28; 76, table 24.
100. *Ibid.*, 146-148.
101. *Ibid.*, 130.
102. *Ibid.*, 180.
103. *Ibid.*, 213.
104. *Ibid.*, 118-119.
105. *Ibid.*, 55.
106. *Ibid.*, 147-148.
107. *Ibid.*, 115-116.
108. *Ibid.*, 77, 78, 132 and 141.
109. Roberto Bachi and Judah Matras, "Contraception and Induced Abortion among Jewish Maternity Cases in Israel," *Milbank Memorial Fund Quarterly*, 40 (1962) 229.
110. Gebhard *et al.*, *op. cit.*, 112 and 140.
111. *Ibid.*, 136.
112. Armijo and Monreal, *op. cit.*, 151. The implications of this study are not entirely clear, however, since a larger proportion of pregnancies is aborted among upper-class women.
113. Margaret Sanger, *Woman and the New Race* (New York: Eugenics Pub. Co., 1920), 128.
114. Marie E. Kopp, *Birth Control in Practice* (New York: Robert M. McBride & Co., 1934), 184.
115. Regine K. Stix, "A Study of Pregnancy Wastage," *Milbank Memorial Fund Quarterly*, 13 (1935) 356-357.
116. See Mark H. Haller, *Eugenics: Hereditarian Attitudes in American Thought* (New Brunswick, N.J.: Rutgers University Press, 1963), 73, 92.
117. *Ibid.* It should be noted that Pearl's earlier work reveals his personal, longstanding interest in demography as such.
118. Raymond Pearl, *The Natural History of Population* (New York: Oxford University Press, 1939), 239-241.
119. Calderone, ed., *op. cit.*, 157.
120. G. R. Venning, "The Abortion Problem," *Family Planning*, 13 (April 1964) 8.
121. Thomas McKeown, "Medicine and World Population," in *Public Health and Population Change: Current Research Issues* (Pittsburgh: University of Pittsburgh Press, 1965), 25-40.
122. Vital Statistics of the U.S., 1964, shows that the fertility rate (births per 1,000 women 15-44) reached a low of 75.8 in 1936, jumped from 85.9 in 1945 to 101.9 in 1946, peaked at 122.9 in 1957, and had fallen to 104.8 by 1964.
123. Venning, *op. cit.*, 11.
124. Yoshio Koya, "Why Induced Abortions in Japan Remain High," in Clyde V. Kiser, ed., *Research in Family Planning* (Princeton, N.J.: Princeton University Press, 1962), 105.
125. *Ibid.*, 109.
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59. *Ibid.*, 34, 43, 47-48, 61-62.
60. *Supra*, pp. 114-115, 163, 185-193, 225.
61. Morris Ginsburg, *On the Diversity of Morals* (London: Mercury Books, 1962), 134.
62. Ernest R. Hilgard, *Introduction to Psychology*, 3 ed. (New York and Burlingame; Harcourt, Brace, and World, Inc., 1962), 124-146 is a typical, standard introduction.
63. Robert H. Lowie, *An Introduction to Cultural Anthropology*, new and enl. ed. (New York: Rinehart and Co., Inc., 1960), has typical chapter headings that correspond quite well with the basic needs. Alexander MacBeath, *Experiments in Living: a Study of the Nature and Foundations of Ethics or Morals in the Light of Recent Work in Social Anthropology* (London: Macmillan, 1952), shows how basic needs are satisfied in diverse ways in various cultures.
64. See my "First Principle of Practical Reason: a Commentary on the *Summa theologiae*, 1-2, question 94, article 2," *Natural Law Forum*, 10 (1965) 168-201.

65. Bonhoeffer, *op. cit.*, 249.
66. *Summa theologiae*, 2-2, 64, 2, c.
67. *Ibid.*, ad 3.
68. *Ibid.*, art. 3.
69. *Summa contra gentiles*, III, ch. 146.
70. *Summa theologiae*, 2-2, 64, 4, c.
71. *Ibid.*, art. 6.
72. *Op. cit.* note 22 *supra*, 33.
73. *Ibid.*, 61.
74. *Summa theologiae*, 2-2, 40, 1, c.
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76. Anthony Kenny, "Intention and Purpose," *Journal of Philosophy*, 63 (October 27, 1966) 642-651.
77. *Summa theologiae*, 1, 19, 9, c.
78. *Supra*, pp. 169, 173, 175, 180, 181, 182-183.
79. Joseph T. Mangan, S.J., "An Historical Analysis of the Principle of Double Effect," *Theological Studies*, 10 (1949) 40-61; J. Ghoos, "L'Acte a Double Effet: Étude de Théologie Positive," *Ephemerides Theologicae Lovaniensis*, 27 (1951) 30-52.
80. Peter Knauer, S.J., "The Hermeneutic Function of the Principle of Double Effect," *Natural Law Forum*, 12 (1967) 132-162.
81. *Ibid.*, 161.
82. *Ibid.*, 162.
83. *Ibid.*, 152.
84. William H. Van der Marck, O.P., *Toward a Christian Ethic: a Renewal in Moral Theology* (Westminster, Md.: Newman Press, 1967), 55.
85. *Ibid.*, 61-67; see also *Love and Fertility: Contemporary Questions about Birth Regulation* (London: Sheed and Ward, 1965), 35-63.
86. Cornelius J. Van der Poel, "The Principle of Double Effect," in *Absolutes in Moral Theology*, ed. Charles Curran (Washington, Cleveland: Corpus Books, 1968), 199-200.
87. *Ibid.*, 207.
88. *Ibid.*, 207-208.
89. *Loc. cit.* note 30 *supra*.
90. William V. O'Brien, *Nuclear War, Deterrence and Morality* (Westminster, Md.: Newman Press, 1967), 8-16, 84-86. He bases his analysis in part (10-11) on testimony by Secretary of Defense Robert McNamara before the House subcommittee of Defense Appropriations; such testimony, repeated each year in the published columns of the *Congressional Record* and in various committee reports is the means by which the deterrent is communicated to those who are deterred by it.
91. G. E. M. Anscombe, ed., *Nuclear Weapons: a Catholic Response* (New York: Sheed and Ward, 1962); O'Brien, *op. cit.*, 80-90, does not wish to give up retaliation in kind but admits its incompatibility with the traditional principle of non-combatant immunity.
92. *Supra*, p. 73.
93. *Supra*, p. 180.
94. *Supra*, pp. 78-79.
95. *New York Times*, April 18, 1969.
96. *Supra*, pp. 107-115.

Notes for Chapter Seven

1. Charles P. Kindregan, "Abortion, the Law, and Defective Children: a Legal-Medical Study," *Suffolk University Law Review*, 3 (1969) 232. Reprinted as *Abortion, the Law, and Defective Children* (Washington: Corpus Papers, 1969).
2. Immanuel Jakobovits, "Jewish Views on Abortion," *Western Reserve Law Review*, 17 (1965) 496.

3. *Ibid.*, 482-483.
4. Herman Schwartz, "Abortion and the Law," (New York: Association for the Study of Abortion), leaflet, 4.
5. "The No. 2 Moral Issue of Today," *America*, March 25, 1967, 452-453.
6. "German Church Centers Fight Abortion Rise," *Religious News Service*, Sept. 12, 1963.
7. "Danish Lutheran Says Abortion Is Murder," *N.C. News Service (foreign)*, July 8, 1965.
8. State of New York, *Report of the Governor's Commission Appointed to Review New York State's Abortion Law* (March 1968) 61.
9. G.H.M., "Let's Talk It Over," *The Lutheran Standard*, June 11, 1968, 15.
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11. "Let's Talk Sense About Abortion," mimeograph distributed by the National Commission on Human Life, Reproduction and Rhythm, 1967.
12. In 1967 the U.S. Episcopal hierarchy approved a resolution rejecting abortions of convenience but approving relaxation along the lines of the A.L.I. proposal—*NC News Service (domestic)*, Sept. 23, 1967.
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16. *Ibid.*, 714.
17. Louis Henkin, "Morals and the Constitution: the Sin of Obscenity," *Columbia Law Review*, 63 (1963) 408-411.
18. 367 U.S. 488 (1961) at 495 n. 11.
19. Paul Ramsey, "Some Terms of Reference for the Abortion Debate," manuscript based on paper delivered at the Harvard-Kennedy Conference (Washington, D.C.: September 6-8, 1967), 7.
20. *Ibid.*
21. *Supra*, pp. 241-242.
22. Charles F. Westoff, Emily C. Moore, and Norman B. Ryder, "The Structure of Attitudes Toward Abortion," *Milbank Memorial Fund Quarterly*, 47 (1969) 16.
23. Felix S. Cohen, *Ethical Systems and Legal Ideals* (Ithaca, N.Y.: Great Seal Books, 1959), 261.
24. Alice S. Rossi, "Public Views on Abortion," mimeograph (Chicago: Committee on Human Development, 1966), 11 and 26.
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26. Letter to the Editor, *New York Times*, March 23, 1966.
27. *Supra*, pp. 237, 245-246.
28. Lord Patrick Devlin, *The Enforcement of Morals* (Oxford: Oxford University Press, 1959).
29. Roy Lucas, "Federal Constitutional Limitations on the Enforcement and Administration of State Abortion Statutes," *North Carolina Law Review*, 46 (1968) 732, 736.
30. H. L. A. Hart, *Law, Liberty and Morality* (New York: Vintage Books, 1963), 32, 44, 45.
31. Charles E. Rice, *The Vanishing Right to Live* (Garden City, N.Y.: Doubleday & Co., Inc., 1969), 134, 167.
32. Cf. Donald A. Giannella, "The Difficult Quest for a Truly Humane Abortion Law," *Villanova Law Review*, 13 (1968) 291-302.
33. Lucas, *op. cit.*, 737.
34. Lawrence Lader, *Abortion* (Indianapolis: Bobbs-Merrill Co., Inc., 1966), 165.
35. Giannella, *op. cit.*, 298.
36. *C.B.S. Reports*, "Abortion and the Law," broadcast on C.B.S. television, April 5, 1965, mimeograph, 25.
37. Address reported in *New York Times*, Feb. 14, 1967 at 32c.
38. Glanville Williams, "Euthanasia and Abortion," *University of Colorado Law Review*, 38 (1966) 196. I have omitted a footnote in which Williams refers to wrongful death actions and brushes them aside.
39. I. Augusti, *Corpus Iuris Civilis: Digesta*, Lib. I, tit. 5, s. 26.
40. The Earl of Bedford's Case, Michaelmas Term, 28 and 29 Eliz., 4 Coke 7 f. 7 (1586); *Wilson ed.*, 77 Eng. Rep. 421 (1777).

41. *Trower v. Butts*, 1 Sim. & Stu. 181, 57 Eng. Rep. 72, 73 (Ch. 1823).
42. *Hall v. Hancock*, 32 Mass. (15 Pick.) 255 (1834).
43. *M'Knight v. Read*, 1 Whart. 213 (Pa. 1835).
44. *In Re Well's Will*, 129 Misc. 447, 221 N.Y.S. 714 (Sur. Ct. 1927).
45. *The Matter of Peabody*, 5 N.Y. 2d 541, 158 N.E. 2d 841, 186 N.Y.S. 2d 265 (1959).
46. *Gore v. Gore*, 2 P. Wms. 28 (1722) cited by Cyril C. Means, Jr., "The Law of New York Concerning Abortion and the Status of the Foetus, 1664-1968: a Case of Cessation of Constitutionality," *New York Law Forum*, 14 (1968) 421-422.
47. *Wallis v. Hodson*, 2 Atk 114 at 117, 26 Eng. Rep. 472 at 473 (Ch. 1740); decision in case cited note 42 *supra* refers to this one and cites passage.
48. *Doe idem Clarke v. Clarke*, 2 H. Bl. 399, 126 Eng. Rep. 617 (C.P. 1795).
49. *Thellusson v. Woodford*, 4 Ves. 227, 31 Eng. Rep. 117 (Ch. 1798).
50. 61 R.I. 169, 200 A. 467 (1938).
51. *Barnett v. Pinkston*, 238 Ala. 327, 191 So. 371 (1939).
52. 199 Cal. 391, 249 P. 517 (1926).
53. 144 N.C. 110, at 110-111, 56 S.E. 691 at 692 (1907).
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55. John L. Hay, "The Law of Prenatal Injuries," *University of Colorado Law Review*, 37 (1965) 274.
56. *Dietrich v. Inhabitants of Northampton*, 138 Mass. 14 (1884).
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61. *Stemmer v. Kline*, 128 N.J.L. 455, 26 A 2d at 687 489 (Ct. Err. & App., 1942).
62. *Bonbrest v. Kotz*, 65 F. Supp. 138 (D.D.C. 1946).
63. *Montreal Tramways v. Leveille*, 4 Dom. L. R. 337 (1933).
64. *Lipps v. Milwaukee Ry. & Light Co.*, 164 Wis. 272, 159 N.W. 916 (1916).
65. *Williams v. Marion Rapid Transit, Inc.*, 152 Ohio 114, 87 N.E. 2d 334 (1949).
66. *Smith v. Brennan*, 31 N.J. 353, 157 A. 2d 497 (1960).
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69. 282 App. Div. 542, 125 N.Y.S. 2d 696 (1953).
70. David W. Louisell, "Abortion, the Practice of Medicine and Due Process of Law," *UCLA Law Review*, 16 (1969) 241.
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72. 9 & 10 Vict. c.93.
73. Prosser, *op. cit.*, 709-710.
74. Gordon, *op. cit.*, 594-595.
75. *Stokes v. Liberty Mutual Life Ins. Co.*, 213 So. 2d 695 (Fla. 1968).
76. *Goodrich v. Moore*, 155 N.W. 2d 247 (Mich. 1967).
77. *Norman v. Murphy*, 124 Cal App. 2d 95, 268 P. 2d 178 (1954).
78. *Gay v. Thompson*, 266 N. C. 394, 146 S. E. 2d 425 (1966); *Graf v. Taggart*, 43 N.J. 303, 204 A. 2d 140 (1964).
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81. Thomas F. Lambert, Jr., "The Legal Rights of the Fetus," in *Birth Control and the Christian*, ed. Walter O. Spitzer and Carlyle L. Saylor (Wheaton, Illinois: Tyndale House Publishers, 1969), 390.

82. Mitchell v. Couch, 285 S.W. 2d 901 (Ky. 1955).
83. Kentucky Rev. Stats., Sec. 411.130.
84. Hatala v. Markiewicz, 26 Conn. Sup. 358, 224 A. 2d 406 (1966).
85. 352 Mass. 446, 225 N.E. 2d 926 (1967).
86. Porter v. Lassiter, 91 Ga. App. 712, 87 S.E. 2d 100 (1955).
87. Georgia Code, 105-1307 (1952).
88. Cf. Gordon, *op. cit.*, 594-595.
89. Morgan v. Susino Const. Co., 130 N.J.L. 418, 33A. 2d 607 (1943).
90. La Blue v. Specker, 358 Mich. 558, 100 N.W. 2d 445 (1960).
91. Herndon v. St. Louis & S.F. R.R., 37 Okla. 256, 128 P. 727 (1912).
92. Texas & P. Ry. v. Robertson, 82 Tex. 657, 17 S.W. 1041 (1891).
93. Nelson v. G. H. & S. A. Ry. Co., 78 Tex. 621, 14 S.W. 1021 (1890).
94. Metzger v. People, 98 Colo. 133, 53 P. 2d 1189 (1936).
95. Kyne v. Kyne, 38 Cal. App. 2d 122, 100 P. 2d 806.
96. Hoener v. Bertinato, 67 N.J. Supp. 517, 171 A. 2d 140 (1961).
97. 42 N.J. 421, 201 A. 2d 537, *cert. denied*, 377 U.S. 985 (1964).
98. *Supra*, pp. 186-193.
99. Cordes v. State, 54 Tex. Crim. 204, 112 S.W. 943 (1908).
100. Clarke v. State, 117 Ala. 1, 23 So. 671 (1898); Morgan v. State, 148 Tenn. 417, 256 S.W. 433 (1923).
101. Means, *op. cit.* note 46 *supra*, 443 ff.; cf. William Diller, "The Unborn Child: Consistency in the Law?" *Suffolk University Law Review*, 2 (1968) 231 note 22.
102. Means, *op. cit.*, 445-446, realizes that this phrase does not limit, and properly criticizes George's interpretation, but Means does not see the full significance of including the phrase, although it is non-limiting.
103. B. James George, Jr., "Current Abortion Laws: Proposals and Movements for Reform," *Western Reserve Law Review*, 17 (1965) 380.
104. Smith v. State, 33 Me. 48, 55 (1851).
105. State v. Murphy, 27 N.J.L. Rep. 112 (Sup.Ct. 1858).
106. Lamb v. Maryland, 67 Md. 524, 533, 10 A. 298, 300 (1887).
107. State v. Cooper, 22 N.J.L. 52 (Sup.Ct. 1849).
108. Foster v. State, 182 Wis. 298, 196 N.W. 233 (1923).
109. State v. Ausplund, 86 Ore. 121, 167 P. 1019 (1917), *error dismissed*, 251 U.S. 563 (1919).
110. Wisconsin Stat. Ann., Sec. 940.04-6 (1958).
111. Association for the Study of Abortion, *Newsletter*, (1969) 1.
112. In this connection it may be noted that the classic definition of abortion in Roman Catholic canon law defined the crime (not *sin*) of abortion as the expulsion of a pre-viable, animated fetus, with death subsequent to live birth; the Code of Canon Law (cf. n. 2350) retains this idea except that "animated" was removed in the 19th century.
113. NC News Service (foreign), May 28, 1969.
114. An Address at Free Trade Hall, Manchester, England, Dec. 5, 1966.
115. Lucas, *op. cit.* note 29 *supra*, 732.
116. *Ibid.*, 731-732.
117. The statutes in question may be found in Eugene Quay, "Justified Abortion: Medical and Legal Foundations," *Georgetown Law Journal*, 40 (1960-1961) 447-519.

118. *Supra*, p. 188.
119. Quay, *op. cit.*, 478.
120. *Ibid.*, 514.
121. Means, *op. cit.* note 46 *supra*, 443-449.
122. *Ibid.*, 449.
123. *Ibid.*, 451-453.
124. *Ibid.*, 506.
125. *Ibid.*, 451.
126. *Supra*, pp. 163 and 190.
127. *Supra*, pp. 186 and 191.
128. Means, *op. cit.*, 452.
129. See Quay, *op. cit.*, 496.
130. State v. Murphy, 27 N.J.L. 112 (Sup.Ct. 1858).
131. State v. Cooper, 22 N.J.L. 52 (Sup.Ct. 1849).
132. Quay, *op. cit.*, 497.
133. Means, *op. cit.*, 461.
134. *Ibid.*, 454-459.
135. *Ibid.*, 463.
136. Evans v. the People, 49 N.Y. 86 (1872); Means, *op. cit.*, 465-487.
137. *Ibid.* at 90.
138. N.Y. Gen. Stats., ch. 181, secs. 1-4 at 71 (1872).
139. Means, *op. cit.*, 487-488.
140. *Ibid.*, 490-491 in notes 201-202.
141. *Ibid.*, 490.
142. *Supra* p. 163.
143. Means, *op. cit.*, 500.
144. *Ibid.*, 492.
145. Quay, *op. cit.*, 504, 483-484, 517, 519, 507, 457, 462; Kansas (474), Missouri (490), and New Hampshire (493) had somewhat similar statutes, but not equal penalties.
146. Means, *op. cit.*, 448.
147. George, *op. cit.* note 103 *supra*, 380-381, suggests that the abortionist could be indicted for second degree murder or manslaughter if there is no special provision in the abortion statute.
148. See notes 129-131 *supra* and accompanying text.
149. According to Quay's compilation, *op. cit.*, 481, 494 and 515.
150. George, *op. cit.*, 381; texts of statutes may be found in Quay.
151. Evans v. the People, 49 N.Y. 86 at 89-90 (1872).
152. Means, *op. cit.*, 509; Lucas, *op. cit.* note 29 *supra*, 731-735.
153. Mills v. Commonwealth, 13 Pa (1 Harris) 631, 633 (1850).
154. Means, *op. cit.*, 509.
155. Cited note 151 *supra*.
156. *Supra*, pp. 186 and 191.
157. Mitchell v. Commonwealth, 78 Ky. 204, 39 Am Rep 227 (1879).
158. Quay, *op. cit.*, 474-476.
159. *Ibid.*, 467.
160. *Ibid.*, 513.
161. *Ibid.*, 487-488.
162. *Ibid.*, 491-492.
163. La Blue v. Specker, 358 Mich. 558, 100 N.W. 2d 445, 450 (1960); Miller v. Bennett, 190 Va. 112, 56 S.E. 2d 217 (1949); 21 N.J. 249, 121 A. 2d 490 (1956).
164. Gleitman v. Cosgrove, 49 N.J. 22, 41, 227 A. 2d 689 (1967).
165. *Ibid.* at 35-36, 227 A. 2d at 696.
166. George, *op. cit.*, 579.
167. 3 All E.R. 615 (K.B., 1938); Quay, *op. cit.*, 525.
168. Ministry of Health and Home Office, *Report of the Inter-Departmental Committee on Abortion* (London: 1939), 27.
169. Glanville Williams, *The Sanctity of Life and the Criminal Law* (New York: Alfred A. Knopf, 1957), 149.

170. American Law Institute, *Model Penal Code, Tentative Draft No. 9* (Philadelphia: May 8, 1959), 148.
171. *People v. Chevez*, 77 Cal. App. 2d 621, 176 P. 2d 92 (1947).
172. *O'Beirne v. Superior Court*, 1 Civ. 25174 (Sup. Ct. of Cal., Dec. 6, 1967).
173. Rice, *op. cit.* note 31 *supra*, 35-36.
174. Means, *op. cit.*, 441-443.
175. *Op. cit.* note 8 *supra*, 57.
176. Cited by Gordon, *op. cit.*, 582.
177. California Penal Code, secs. 3705-06 (West 1954).
178. *Zepeda v. Zepeda*, 41 Ill. App. 2d 240, 190 N.E. 2d 849 (1963), *cert. denied*, 379 U.S. 945 (1964).
179. *Williams v. State*, 46 Misc. 2d 824, 260 N.Y.S. 2d 953 at 959.
180. *New York Times*, June 26, 1965.
181. 25 A.D. 2d 908, 269 N.Y.S. 2d 787.
182. 276 N.Y.S. 2d 885 at 887.
183. *Gleitman v. Cosgrove*, 49 N.J. 22, 227 A. 2d 689 (1967).
184. *Ibid.*, at 693.
185. *A.M.A. News*, January 13, 1969.
186. *Op. cit.* note 55 *supra*, 276.
187. *Ibid.*, 277; quotation cited to Cook, *The Logical and Legal Basis of Conflict of Laws*, 159 (1942).
188. *Op. cit.* note 101 *supra*, 228.
189. See notes 153 and 157 *supra* and accompanying text.
190. See note 56 *supra* and accompanying text.
191. New York Law Revision Commission, "Communication to the Legislature Relative to Prenatal Injuries," January 23, 1935 at 6, note 4.
192. 56 N.E. 641.
193. 124 Tex. 347, 78 S.W. 2d 944 (1935).
194. *Leal v. C. C. Pitts Sand and Gravel, Inc.*, 419 S.W. 2d 820 (Texas 1967).
195. *Stemmer v. Kline*, 128 N.J.L. 455, 468, 26 A. 2d 489 at 688 (1942).
196. *Bonbrest v. Kotz*, 65 F. Supp. 138 at 140-141 (D.D.C. 1946).
197. *Verkennes v. Cornica*, 229 Minn. 365, 38 N.W. 2d 838 at 840 (1949).
198. *Kelly v. Gregory*, 282 App. Div. 542, 125 N.Y.S. 2d 696 at 698 (1953).
199. *Porter v. Lassiter*, 91 Ga. App. 712, 87 S.E. 2d 100 (1955).
200. 208 Ga. 201, 65 S.E. 2d 909 (S.Ct.Ga. 1951).
201. Ohio Constitution, Sec. 16, art. 1.
202. *Williams v. Marion Rapid Transit, Inc.*, 152 Ohio 114 at 120, 87 N.E. 2d 334 at 340 (1949).
203. *Mallison v. Pomeroy*, 205 Ore. at 693, 291 P. 2d at 228 (1955).
204. *Sherbert v. Verner*, 374 U.S. 398 at 406 (1963).
205. 42 N.J. 421, 201 A. 2d 537, *cert. denied*, 377 U.S. 985 (1964).
206. See 171 note *supra* and accompanying text.
207. *Supra*, pp. 323-325, 336.
208. *Supra*, pp. 273-287.
209. "Euthanasia and Abortion," *University of Colorado Law Review*, 38 (1966) 201.
210. *Ibid.*, 200.
211. *Op. cit.* note 169 *supra*, ix-x.
212. *Levy v. Louisiana*, 391 U.S. 68 at 70 (1968).
213. *Supra*, pp. 283-286, 303.
214. "Euthanasia and Abortion," 198.
215. *Gulf, Colorado, and Santa Fe Railway v. Ellis*, 165 U.S. 150 (1897); *Yick Wo v. Hopkins*, 118 U.S. 356, 6 Sup. Ct. 1064, 30 L. Ed. 220 (1886).
216. *Op. cit.* note 70 *supra*, 250-253.
217. Note signed J.T.S., "In Defense of the Right to Live: the Constitutionality of Therapeutic Abortion," *Georgia Law Review*, 1 (1966-67) 699-700.
218. *Supra*, pp. 107-115, 344.
219. Sybil Meloy, "Pre-Implantation Fertility Control and the Abortion Laws," *Chicago-Kent Law Review*, 41 (1964) 183.

220. *Op. cit.* note 8 *supra*, 72.
221. Rollin M. Perkins, *Criminal Law* (Brooklyn: The Foundation Press, Inc., 1957), 849.
222. *Supra*, pp. 220-222.
223. *Op. cit.* note 70 *supra*, 250-253.
224. *Supra*, pp. 259-261.
225. Lucas, *op. cit.* note 29 *supra*, 759-760.
226. *Ibid.*, 745-746.
227. *Supra*, pp. 276-277.
228. *Supra*, pp. 107-115, 225.
229. *Op. cit.* note 8 *supra*, 88.
230. Lucas, *op. cit.*, 760-761.
231. *Ibid.*, 765.
232. *Ibid.*, 754, 760.
233. Means, *op. cit.* note 46 *supra*, 434-438.
234. *Ibid.*, 451.
235. Lucas, *op. cit.*, 767-769.
236. *Ibid.*, 772-773.
237. *Supra*, pp. 52-54.
238. *Supra*, pp. 71-72.
239. Lucas, *op. cit.*, 737-738, 743-745, 761-762.
240. *Ibid.*, 766.
241. One exception is Jakobovits, *op. cit.* note 2 *supra*, 494-495.
242. 381 U.S. 479, 14 L. ed. 2d 510, 85 S. Ct. 1678 (1965).
243. Lucas, *op. cit.*, 763-764.
244. *Ibid.*, 764.
245. Tom C. Clark, "The Law as It Governs Decisions Today," in *Birth Control and the Christian*, ed. Walter O. Spitzer and Carlyle L. Saylor (Wheaton, Illinois: Tyndale House Publishers, 1969), 361-364; quoted passage is at 362-363.
246. Means, *op. cit.*, 506.
247. *Supra*, pp. 204-208.
248. *Op. cit.* note 217 *supra*, 706.
249. Georgia Laws (1968) 26-1106 (c).
250. *Supra*, pp. 276-277.
251. *Supra*, pp. 241-242.
252. American Law Institute, *Model Penal Code, Tentative Draft No. 9* (Philadelphia: May 8, 1959) 147.
253. *Supra*, pp. 45-48, 253-256.
254. A.L.I., *op. cit.*, 149.
255. *Ibid.*, 149-150.
256. *Ibid.*, 158.
257. *Ibid.*, 151.
258. *Ibid.*, 150.
259. *Ibid.*, 156.
260. *Op. cit.* note 24 *supra*, 14, 19.
261. New York *Journal American*, March 9, 1966.
262. Testimony of Harriet F. Pilpel on behalf of the New York Civil Liberties Union before the Committee on Health, New York State Assembly, March 7, 1966 (mimeograph), 2-3.
263. *Ibid.*, 7.
264. The text of this paper was published by NC News Service (documentary), September 14, 1967.
265. "Catholic Moral Teaching and Abortion Laws in America," *Proceedings of the Twenty-Third Annual Convention of the Catholic Theological Society of America*, Washington, D.C., June 17-20, 1968 (Yonkers, N.Y.: 1969), 118-130.
266. *Ibid.*, 119; reference is to William M. Abbott, S.J., ed., *Documents of Vatican II* (New York: Guild Press, America Press, Association Press, 1966), 687.

267. Abbott, *op. cit.*, 686-687.
268. Drinan, *op. cit.*, 122-123.
269. "The Inviolability of the Right to Be Born," *Western Reserve Law Review*, 17 (1965) 465 at 479.
270. "The Right of the Fetus to Be Born," mimeograph distributed at the Harvard-Kennedy Conference, Washington, D.C., Sept. 6-8, 1967, 11.
271. *Ibid.*, 12.
272. Mass. Gen. Laws Ann., ch. 272, sec. 19 (1959); *Commonwealth v. Wheeler*, 315 Mass. 394, 53 N.E. 2d 4 (1944).
273. D.C. Code Ann., sec. 22-201 (Supp. VIII, 1960).
274. *Op. cit.* note 265 *supra*, 129.
275. *Op. cit.* note 270 *supra*, 10.
276. *Op. cit.* note 265 *supra*, 128.
277. *Supra*, pp. 245-249.
278. *Supra*, p. 248.
279. *Supra*, pp. 19-23.
280. *Supra*, p. 247.
281. Joseph B. De Lee and J. P. Greenhill, eds., *The 1940 Yearbook of Obstetrics and Gynecology* (Chicago: The Year Book Publishers, 1941), 69.

Notes to Epilogue

1. C.J. Julian and E.N. Jackson, *Modern Sex Education* (New York: Holt, Rinehart and Winston, Inc., 1967), 27-28.
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