

*"We hold these truths to be self evident, that all men are created equal"*

# AMERICANS UNITED FOR LIFE

A National Educational Organization for the Defense of Human Life

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Statement of Professor Victor Rosenblum, Vice Chairman, Americans United for Life, before the McLellan Committee of the U.S. Senate, March 7, 1973.

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All Americans who believe in the sanctity of human life cannot help but be disappointed and dismayed by the Supreme Court's ruling on abortion on January 22nd. It was especially inconsistent with the court's past expressions of its concern for life that the majority of the justices - having only last spring outlawed the death penalty as administered because it is a cruel and brutal punishment for crime - should facilitate imposition of the death penalty on the most innocent of human beings, children in the womb.

Justice Blackmun, who wrote the majority opinion, held that the right of personal privacy, pursuant to the Constitution, "includes the abortion decision." Any right to life for the fetus, such as that the fetus is a "person" within the language and meaning of the Fourteenth Amendment was rejected, partly because "no case could be cited that holds that the fetus is a person within the Fourteenth Amendment," partly because "the word 'person' as used elsewhere in the Constitution has application only post-natally" and partly because "abortion practices were far freer throughout the major portion of the 19th Century when the Fourteenth Amendment was adopted than they are today." The majority felt it appropriate to rule that state abortion laws cannot interfere

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with a "woman's right" to terminate her pregnancy during the first trimester as long as her decision to abort the fetus is concurred in by the medical judgment of her physician.

In viewing abortion as a "woman's right" the judges held that "We need not resolve the difficult question of when life begins. When those trained in the respective disciplines of medicine, philosophy and theology are unable to arrive at any concensus, the judiciary, at this point in the development of man's knowledge, is not in a position to speculate as to the answer."

Contending that the "unborn" have never been recognized in the law as persons in the whole sense, Blackmun claims to rely on present medical knowledge for holding that the State does not have a "compelling" interest in protecting the potentiality of human life until the end of the first trimester. He appeared to place a great deal of reliance on what he termed the "now established medical fact" that "until the end of the first trimester mortality in abortion is less than mortality in normal childbirth." Viability - the capability of the fetus to survive outside the mother's womb - was to be the test of whether the "compelling" point has been reached for the State's legislative expression of a legitimate interest in potential life.

What is especially puzzling, depressing, and I think wrong about the Supreme Court majority's opinion in the abortion case concerns its handling of the question of the commencement of life. As noted earlier, Justice Blackmun stated initially that "we need not resolve the difficult question of when life begins." But if the majority thought it inappropriate to "speculate" on the origin of life, how could they reach so didactic a conclusion authorizing life's demise for countless innocents? If the majority leave open as a legal matter the view that life begins before the third trimester, then their decision places

a judicial seal of approval on ending life for reasons of convenience or caprice while remaining ambivalent about its beginning.

The organization of which I am Vice-Chairman, Americans United for Life, which is a national educational organization for the defense of human life, with headquarters at 230 N. Michigan Ave. Chicago, Ill. 60601, is convinced that the American people will support the inviolability of human life, especially the unborn, as they come to understand the reality and vitality of human life in the womb and the brutality of death by abortion. Dr. Mildred Jefferson's testimony before this distinguished committee today about the latest scientific knowledge concerning the activities and responses of the child in the womb should help immeasurably in bringing about such understanding.

The real test of our humanity is not formal viability. It is not our ability to survive unaided outside the womb. The test of our humanity, rather, is our concern with facilitating human survival and human achievement through developing science's capacity to nurture and enhance human life in all its manifestations.

The kind of scientific capacity I am speaking of is typified by the dedication and split-second coordination of medical, nursing, public health, and police officials in Illinois that enabled the Baer quintuplets of my State of Illinois to survive and thrive through the most up-to-date skills of fetology and the most creative concerns of professional people.

I urge that the law not leap from its time honored concern with the preservation and protection of life to the sanctioning of death for persons least able to speak out in their own behalf. At times in our past--times we have come to rue and repudiate--we have sought to dehumanize enemies of our country to warrant killing them; or to dehumanize persons convicted of crimes to warrant killing them; or as in the Dred Scott case, to dehumanize black people so as to warrant holding them in slavery. At least in the case of national enemies,

the taking of life could be explained as the only alternative to the loss of our own; in the case of criminals, a self defense rationale could also be developed, though the Supreme Court itself has not found such a rationale acceptable.

This is an era in which we strive for new enlightenment about humankind. We acknowledge and seek an end for all time to the inhumanity of war, hate, and racism. Let us seek the same enlightenment with regard to our unborn in the womb.

As we learn more about the varieties, complexities, and aspirations of the human condition, let us show at least compassion for that condition, and hopefully unabashed love, by allowing life to proceed unmolested along its road to cognition and achievement. Our creed has never been survival of the fittest, or of the richest, or of the most convenient. We speak of and take pride in, "one nation, under God, indivisible with liberty and justice for all."

The Supreme Court majority's holding contradicts law's traditional regard for the preservation and protection of life. As Justice White pointed out in his dissent in which Justice Rehnquist joined, the majority's holding was that "during the period prior to the time the fetus becomes viable the Constitution of the United States values the convenience, whim or caprice of the putative mother more than the life or potential life of the fetus."

I think it a mark, not only of indifference, but of the abandonment of regard for humanity when we sanction the view that convenience or whim of one person takes priority over the life of another. It was not dedication to convenience or whim that made us a great nation; greatness, rather, stems from our regard for the "tired, poor, and tempest tossed" who sought our shores as a haven from the oppression that reduced them in other lands to human ciphers.

Countless individuals with first-hand knowledge of the lash, scourage, purge, pogrom, or other lynch mob, directed at them solely because of race, nationality,

Statement of Professor Victor Rosenblum, March 7, 1973

Page 5

or religion, could find here regeneration from status as a mere "straw in the wind," to personhood protected by the highest law of the land.

Work, sweat, craftsmanship, faith, and compassion for our fellow human beings enhanced our creativity, productivity and morale.

Convenience has no hallowed place in our Constitution or national policy. Life, the first of the three primary elements enumerated in the fifth and fourteenth amendments, holds the position of constitutional primacy.