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THE DEATH KNELL OF PRIVACY

" 'For a man's house is his castle, *et domus sua cuique est tutissimum refugium*' (Coke *Institutes*). What was true in the 16th and 17th centuries is fast losing its meaning in our day and age. Right, left and centre the demands of modern society eat into the remnants of the individual's right of personal privacy and the sanctity of his home. Today a more appropriate statement of the average man's position would be: 'Shut the door they're coming in the window.' It is high time we took stock of the situation and tried to salvage as much as we can from the intrusive propensities of our fellow men individually and collectively." That was how a former editor of the JOURNAL, Mr F. R. Macken, saw the situation five years ago ([1967] N.Z.L.J. 313).

In a further editorial on the subject, the same editor concluded: "In a country like ours with a unicameral Legislature prone to act without adequate research or consultation the message [a warning to be wary of the excuse of the economic well-being of the country as a justification for the limitation of the individual's privacy] is clearly for us." ([1967] N.Z.L.J. 337).

Mr Macken was moved to comment at the conclusion of the 1967 Stockholm Conference, organised by the Swedish section of the Internation Commission of Jurists and convened specifically to discuss the right to privacy. The conference resolved "The right to privacy, being of paramount importance to human happiness, should be recognised as a fundamental right of mankind. It protects the individual against public authorities, the public in general and other individuals . . . [we recommend] that all countries take appropriate measures to protect by legislation or other means the right to privacy in all its different aspects and to prescribe the civil remedies and criminal sanctions required for its protection".

The conference supported in detail Article 12 of the Universal Declaration of Human Rights and Article 17 of the United Nations covenant on civil and political rights of December 1966 (to which the Government of New Zealand is a party) which provide that: "No one shall be subject to arbitrary interference with his privacy . . . ." and that "everyone has the right to the protection of the law against such interference. . . ."

Although it was over eighty years ago that, in the United States, Louis D. Brandeis, in collaboration with Samuel D. Warren, published his article "The Right to Privacy"—which stressed the need for the law to protect personal privacy and suggested that the common law could develop to do this—the common law (and New Zealand statute law supplemental thereto) still does not recognise any general right to privacy. The law protects a man's person, his property, his reputation; but it does not specifically protect his privacy. Such protection as can be relied upon is rather the fortuitous by-product of laws designed or evolved for other purposes—e.g. trespass, nuisance, defamation, copyright, breach of confidence, breach of statutory duty etc. On analysis it is hardly surprising that such protection turns out to be fragmentary, incomplete and grossly inadequate.

But why *should* privacy be so treasured? The answer is simple. Although man as a social animal cannot exist for long in total isolation, yet he has at the same time the need to be able to withdraw from others, at different times and for differing reasons. To preserve both his sense of identity and the integrity of his own personality, and to work out his personal relation-

ships and to find his own way to salvation, each human being has to be able to limit the area of his involvement with others as even those dedicated to communal living have found. This area must vary from person to person and from time to time in accordance with personality and in accordance with varying emotional needs. But we must, if we want to, be able to keep to ourselves those thoughts and feelings, beliefs and doubts, hopes, plans, fears and fantasies, which we call "private" precisely because we wish to be able to choose freely with whom and to what extent we are willing to share them.

On the other side of the coin there are the needs of the community of which the individual forms part. By combining, we are able to achieve higher standards of material comfort and to develop our potential to a degree we could not attain if we were all left to battle on single-handed. The price we pay is to abandon part of our freedom of choice. Conflict occurs when we have to balance the individual's need for privacy against the legitimate needs of the community constituted by the society of which he is a member. To achieve a balance between conflicting needs we have a legal system, and in enacting laws (or in even in not enacting them), it is necessary for us to compromise between two mutually exclusive needs.

Perhaps the greatest problem in striking this balance is in defining precisely what "privacy" is. Judge Cooley called it "the right to be let alone" (*Torts*, 2nd ed., 1888) and the *Shorter Oxford English Dictionary* gives: "The state or condition of being withdrawn from the society of others, or from public interest; seclusion."

But the concept of privacy has a substantial emotional content, in that many of the things which we feel the need to preserve from the curiosity of others are feelings, beliefs, or matters of conduct which are themselves irrational. The concept of privacy is also governed by the mores of society, and as such is subject to continual change.

The Committee on Privacy of *Justice* in 1970 wisely left the dilemma unresolved—"We prefer . . . to leave the concept [of privacy] much as we have found it, that is as a notion about whose precise boundaries there will always be a variety of opinions, but about whose central area there will also be a large measure of agreement. At any given time, there will be certain things which almost everyone will agree ought to be part of the 'private' area which people should be allowed to preserve from the intrusion of others, subject only to the over-riding interest of the community as a whole where this plainly outweighs the private right. Surrounding the central area there will also be a 'grey' area on which opinions will differ, and the extent of this 'grey' area, as also that of the central one, is bound to vary from time to time."

Mr Macken was writing to salute the introduction of a Right of Privacy Bill into the House of Commons by a private member. The fate of that Bill, together with others of like ilk (among them this year's Protection of Privacy Bill), is now history.

In New Zealand the right of privacy is currently seen by some as being attacked by the Government's proposal to establish a Law Enforcement Information Service (L.E.I.S.) computer centre at Wanganui.

The modern computer has been described as "a very fast and accurate idiot." It cannot do anything which an ordinary human being cannot do, but it can do certain things millions of times faster and, depending on adequate programming and an initially correct feed of information, with unerring accuracy. The amount of information which it can permanently store is astronomically greater than anything the average man can comprehend. It has been said that the latest storage devices can store the entire contents of the Bible in a record the size of a postage stamp; and that a matchbox full of computer records can hold information which, printed on paper, would fill a cathedral from floor to roof.

Because of this fantastic storage capacity and incredible retrieval speed, it becomes worthwhile to record transactions which in the past would have been fruitless. Take two examples. It will become economic in the near future for all hotels to participate in a central computer-based reservations system. Once the system is in operation, the immediate information will be available that whenever Mr A. has spent a night at any hotel in New Zealand in the last two years, Miss Y. has been in an adjoining room. Without the computer this sort of information could only have been obtained, if at all, at enormous cost. Consider again—as the credit card system expands, to supermarkets, public libraries, telephones and parking meters, a central system could acquire information immediately available as to the tastes, interests, probable opinions and day-to-day whereabouts and contacts of any selected subject. Indeed, the combined banks' data bank is probably open to criticism as a breach of confidentiality.

Not simply the latter-day Luddite but the computer industry itself are disturbed at these possibilities. For this reason a seminar was held recently at Massey University with as its topic the social responsibility of the computer professional.

At that seminar it became clear that the Government is firmly bent on establishing its L.E.I.S. Data Bank; that there are no safeguards whatsoever to protect the individual beyond promises against abuse; and that the Government (or at least the Government representative at the seminar) was not prepared to give any information as to whom the information will be made available. The Minister of Justice, who must accept parenthood for this misbegotten chidl, was at first billed as a principal speaker but in the event did not attend. Since the conference the chairman of the Cabinet Committee on State Services has renewed assurances of secrecy and has claimed that information will only be available to the police and the Ministry of Transport a claim which can hardly repeal statutory provisions to the contrary.

Opening the conference, another lawyer (in his capacity as Mayor of Palmerston North) Mr Brian Elwood, was reported as saying that New Zealand was a small society not yet ready to accept the recorder-identifier system; that the establishment of such a thing was viewed by the country as a monster; and that the silent majority would have sufficient power and by its very pressure might force a compromise in limiting the application of a computer system—"It could mean something a little less authoritative, less perfect and less inhuman," he is reported to have said. On behalf of the New Zealand Computer Society, its president, Mr B. Harpham, reportedly said that his Society saw a need for legislation to protect society and conceded that people did have justifiable fears.

But, as Mr Harpham rightly pointed out, the computer is far from being the *only* threat to personal privacy.

In our credit-orientated society, banks, credit companies, insurance companies, accommodation centres and prospective employers—not to mention the State itself—are gathering information on us all. Much of this information is swapped on a "confidential" basis—even, it is suspected, the results of personality tests. The extent of the inroads being made into personal privacy is shown by this sample of questions taken from a "personality test" used by some United States Federal Agencies:

State whether true or false:

I feel there is only one true religion.

My sex life is satisfactory.

During one period when I was a youngster, I engaged in petty thievery.

I believe in the second coming of Christ.

I believe women ought to have as much sexual freedom as men.

Christ performed miracles.

There is very little love and companionship in my family as compared to other homes.

I dream frequently about things that are best kept to myself.

Once in a while I laugh at a dirty joke.

There is something wrong with my sex organs.

This swapping of dossiers represents an indefensible invasion of privacy already taking place. An example of where this can lead is given by the man who left university and began work as an engineer. During twenty years of work he had three different employers but never managed to gain significant promotion. While working at a fourth place of employment the manager called him in and said that he wanted very much to promote him but that there was one thing he had to ask him. The manager then showed him a pre-employment check which had been run on him before he began his first job in which it was stated that he had "homosexual tendencies." The engineer denied this and was quite happy to talk about it with the manager, who accepted that the statement was untrue. However the fact remains that this false report had followed him about for twenty years and had been a serious hindrance to his promotion.

Further, the point must be taken that most credit facilities have conservative and conformist views of how people should live their lives. A good credit risk is a man who marries but once, has the requisite two children, a house on mortgage, a car and attends church regularly.

Moreover, in compiling these dossiers there is a definite preconception in the minds of those involved. Any amount of discrimination is apparent, particularly in the field of cultural descrimination—if a person's hair is longer than the interviewer; if he is wearing a leather jacket and the interviewer a suit, and so on.

While the younger generation clamours for a more varied life with fewer pressures and a wider range of choices, those who compile the dossiers are applying pressure in precisely the opposite direction.

All manner of material finds its way on these dossiers, even personal correspondence—as an Anglican Bishop discovered in the course of a television discussion when a letter he had written to a third person was used by his television opponent to the obvious bewilderment of the cleric.

For who will use L.E.I.S. information? Who will decide what will be stored? Who will have access to print-outs? Who will ensure that they are destroyed after use? Who, in our village-sized country, will accept responsibility for the

inevitable leaks? After all, if the security-minded Americans cannot keep their computer-stored secrets confidential, how on earth can we?

Even the suggestion that those whose information is stored on L.E.I.S. should be entitled to a print-out of their dossier (to ensure its accuracy) hardly withstands examination. It is a simple matter to programme a computer's information into categories—e.g. "available data" (which would be included on a general print-out) and "classified data" (which would only be made available to certain categories of enquirers). The machine, after all, is only as good as its masters. It is obvious that there are in the L.E.I.S. proposal, an infinite variety of possible abuses. And the profession, as the traditional watchdog for legislative abuses, is indebted to one of its members, Mr F. M. Auburn (at [1972] N.Z.L.J. 409) for taking up the cudgels on the part of the individual and for attending the Computer Society seminar to illustrate just how bereft of safeguards the proposal is.

Yet the frightening fact which emerges from the seminar was that the Government is not only going ahead wih the proposal, but (or at least its representative at the Seminar) is not even prepared to disclose details as to who is to have access to the data.

The astonishing feature of the entire L.E.I.S. proposal is the complete paucity of argument in favour of such an establishment. What is wrong with present storage systems? Why the need to cross-reference between Departments?

Rather L.E.I.S. is to be seen as a misbegotten child of bureaucracy, furtively conceived in a moment of computer mania and without any apparent thought being given to the social consequences.

Personal information on individuals scattered throughout the country in small units held on pieces of paper in manila folders (and therefore for all practical purposes impossible to bring together in one place), will be welded together. The facile and oft-expressed argument that this information is already held and accordingly there can be no objection to L.E.I.S., is simply answered—danger lies in the very *centralisation* of information and the assumption of the individual of a "computer personality", with a face and characteristics which may be completely divorced from reality.

With the establishment of the Centre can only come pressure for the enlarging of its scope. Logically this will mean that census information should be stored there (confidentially, of course!), and equally logically one can look forward to individuals refusing to co-operate with census takers.

For, however glib the reasons behind L.E.I.S. may be (and the Chairman of the State Services Commission, Mr I. G. Lythgoe has said "the largest single argument is the economic one"), it is essential that we never lose sight of the fact that a bureaucracy is not always benign. Indeed it has been suggested that one of the reasons given for the degree of oppression which accompanied the Nazi occupation of the Netherlands was the Dutch predeliction for record-making and record-keeping.

The long-term effects of L.E.I.S. can make it possible for the State to mould society very much as the State wishes. As time passes, more and more people will realise that they will only be able to do noncomformist things at greater and greater material risk to themselves. The price of L.E.I.S. is therefore seen as a dear one. It is important that the profession and the public at large appreciate the cost before they discover that they have already betrayed their heritage. As Mr N. Kirk has stated, the only solution is to have legislatively confirmed, absolute and adequate safeguards on the collection and use of computer data. At present there are none.

JEREMY POPE.

Punishment and the Public—"We must not forget that when every material improvement has been effected in Prisons, when thetemperature has been rightly adjusted, when the proper food to maintain health and strength has been given, when the Doctors, Chaplains, and Prison visitors have come and gone, the convict stands deprived of everything that a free man calls life. We must not forget that all these improvements, which are sometimes salves to our consciences, do not change that position. The mood and temper of the public in regard to the treatment of crime and criminals is one of the most unfailing tests of the civilisation of any country. A calm and dispassionate recognition of the rights of the accused against the State, and even of convicted criminals against the State, a constant heart-searching by all charged with the duty of punishment, a desire and eagerness to rehabilitate in the world of industry all those who have paid their dues in the hard coinage of punishment, tireless efforts towards the discovery of curative and regenerating processes, and an unfaltering faith that there is a treasure, if you can only find it, in the heart of every man —these are the symbols which in the treatment of crime and criminals mark and measure the stored-up strength of a nation, and are the sign and proof of the living virtue in it". *Sir Winston Churchill* speaking in 1910 as Home Secretary.

BILLS BEFORE PARLIAMENT

Accident Compensation
Apprentices Amendment
Appropriation
Aviation Crimes
Buller—West Coast Promotion
Clean Air
Clean Air (No. 2)
Counties Amendment
Customs Orders Confirmation
Dairy Board Amendment
Education Amendment
Electric Power Boards Amendment
Electoral Amendment
Equal Pay
Factories Amendment
Fire Services
Fire Services Amendment
(Flat and Office Ownership) Unit Titles
Hydatids Amendment (No. 2)
Indecent Publications Amendment
Joint Family Homes Amendment
Judicature Amendment
Local Legislation
Machinery Amendment
Maori Purposes
Margarine Amendment
Marlborough Sounds Maritime Park
Meat Amendment
Municipal Corporations Amendment
National Housing Commission
New Zealand Council for Educational Research
New Zealand Superannuation
Pacific Islands Polynesian Education Foundation
Petroleum Amendment
Police Amendment
Preservation of Privacy
Reserves and Other Lands Disposal
Rent Appeal Boards
Shops and Offices Amendment
Social Security Amendment
Statutes Amendment
Superannuation Amendment
Syndicates
Testing Laboratory Registration
Tobacco Growing Industry Amendment
Town and Country Planning Amendment
Transport Amendment
War Pensions Amendment
Water and Soil Conservation Amendment
Wool Marketing Corporation
Workers' Compensation Amendment

STATUTES ENACTED

Carter Observatory Amendment
Children's Health Camps
Coal Mines Amendment
Customs Amendment
Estate and Gift Duties Amendment
Finance
Hydatids Amendment
Imprest Supply
Imprest Supply (No. 2)
Land and Income Tax Amendment
Land and Income Tax Amendment (No. 2)
Land and Income Tax (Annual)
Mental Health Amendment
Ministry of Agriculture and Fisheries Amendment
Ministry of Energy Resources
Ministry of Transport Amendment
Minister of Local Government
National Art Gallery, Museum, and War Memorial
National Housing Commission
Occupational Therapy Amendment
Public Revenues Amendment
Republic of Bangladesh
Republic of Sri Lanka
Shipping and Seamen Amendment
Soil Conservation and Rivers Control Amendment
Stamp and Cheque Duties Amendment.
Town and Country Planning Amendment
Trustee Companies Amendment
Unit Titles
University of Albany

REGULATIONS

Regulations Gazetted 21 September to 5 October 1972 are as follows:

Criminal Justice Regulations 1954, Amendment No. 3 (S.R. 1972/211)
Customs Tariff Amendment Order (No. 17) 1972 (S.R. 1972/212)
Customs Tariff Amendment Order (No. 18) 1972 (S.R. 1972/206)
Developing Countries Tariff Order 1972 (S.R. 1972/213)
Freshwater Fisheries Regulations (Southland) Modification Notice 1972 (S.R. 1972/210)
Hampster Importation and Control Regulations 1972 (S.R. 1972/214)
Milk Producer and Other Prices Notice 1968, Amendment No. 11 (S.R. 1972/209)
Ministry of Energy Resources Act Commencement Order 1972 (S.R. 1972/215)
Stabilisation of Remuneration Regulations 1972, Amendment No. 1 (S.R. 1972/207)
Tuberculosis Regulations 1951, Amendment No. 2 (S.R. 1972/208)

CATCHLINES OF RECENT JUDGMENTS

Custody of children—Welfare reports—Privileged communication to Court which may prohibit disclosure to divorced litigants. *McWilliams* v. *McWilliams* (Supreme Court, Auckland, 14 September 1972. Speight J.).

Husband and wife—Matrimonial proceedings—Application for decree absolute—Whether to be granted when application for ancillary relief under s. 58 of the Matrimonial Proceedings Act 1963, filed but not heard. *Duncan* v. *Duncan* (Supreme Court, Wellington. September 1971. Quilliam J.).

FORMATION OF THE NEW ZEALAND LEGAL ASSOCIATION

A meeting which may prove to be of some significance for the future of the profession was held in Christchurch on 7 September 1972. This was the Inaugural Meeting of the New Zealand Legal Association.

The meeting was called by Mr John Burn, Chairman of the Steering Committee which had been appointed at an earlier meeting on 26 June. Subsequent to that meeting invitations were issued to all members of the profession in the Canterbury District and some fifty-five practitioners attended the meeting of whom fifty subsequently joined the Association. It is contemplated by the Association's proposed rules that membership be open to all persons possessing a legal qualification, whether in practice or not and that in particular members of university law faculties should be eligible. In the invitation to attend the inaugural meeting Mr Burn stated:

"The aims of the association are basically fourfold:

"(a) To better inform the public on legal matters and thus improve the image of the profession.

"(b) To promote the improvement of professional conditions and procedures in all aspects of practice.

"(c) To conduct educational activities within the profession to improve the standard of service to the public.

"(d) To maintain regular meetings, both business and social, to keep the above aims before the Association and to keep up to date with the opinion of members.

"You will at once realise that some of these activities appear to duplicate those of the Law Society. It is not, however, our desire to set up a rival body to the Law Society, but rather a more flexible and less formal organisation which will be able to better fulfil the above objects than the Law Society has been able to do. We have had encouraging correspondence from the British Legal Association, a society which has many of the practising Solicitors in Britain in its membership. The British Legal Association is now accepted as a leading spokesman for the profession, and has in Britain been able to represent the views of the profession on many legal developments in such a way that the Law Society could not achieve. The Chairman of the British Legal Association writes to us: 'Our Association was formed not as an anarchical body but to provide a separate regularised professional body to relieve Law Society of some of its hats'. The same is the intention of the New Zealand Legal Association, which takes the view that the Law Society has so many formal, disciplinary and administrative functions to cope with that it simply has not the time to achieve one of the aims it is charged with under the Law Practitioners Act 1955—'Generally to protect the interests of the legal profession and the interests of the public in relation to legal matters.' We accept that the Law Society makes submissions on a Parliamentary level, but we feel concerned that for so long it has refrained from making any public statement in relation to legal matters.

"All other professions through their associations voice their views on matters of public interest and we feel that in a modern society there is no longer any need for the legal profession to stand aloof. It is better placed than any profession to see the erosion of the rule of law and the curtailment of liberty, and to continue to withhold the legal view on these matters only serves to increase the problems they present. In other countries the profession represents a democratic bulwark which by its voice renders an essential public service, at the same time as it increases the esteem in which lawyers generally are held.

"It is acknowledged that since membership of the New Zealand Law Society is compulsory, it may not be thought appropriate for the Society to express public opinions on legal matters for fear that they may not truly represent the views of many individual members (who cannot however resign in protest). We feel that the New Zealand Legal Association, to be formed throughout the country, will not suffer from this disadvantage, and we envisage the formation of study groups and seminars within the Association at which informed views on matters of public interest may be reached."

The meeting was opened by Mr Burn who restated his position as set out in the invitation and said that he believed the profession would support reasoned and responsible statements of views. He confirmed that the association was not being set up to rival or attack the Law

Society and he expressed his belief that the two bodies could exist side by side without rancour. He then called for a general discussion on the subject of the association and its aims.

Many of those present joined in the discussion and it was evident that the formation of the association for the aims stated in the invitation was generally approved of by those present. Two senior practitioners defended the record of the Law Society with regard to the question of public information and one of these suggested that the association's aim of making public statements was a retrograde step. He suggested that if the New Zealand Legal Association expressed a view not held by a substantial body of lawyers then the New Zealand Law Society would feel bound to draw attention to this fact. He also suggested that those who make the most noise sometimes have the least notice taken of them.

Other speakers suggested that there was room for legitimate divergence of opinions within the profession and that there was no cause for alarm in the prospect of the public witnessing controversy within the profession on important matters. One ex-president of the Canterbury Law Society stated that he believed the public was under the impression that a pall of orthodoxy had settled on the legal profession and that evidence of dissent within the profession would be important in dispelling this belief. He felt the public had no idea that lawyers had views on anything.

One speaker expressed concern that the Law Society's views were put forward to the appropriate bodies without the individual members of the Society knowing what those views were and he saw as a virtue of the New Zealand Legal Association that individual members could attend meetings and make their own views known.

Some speakers felt that while the association should act responsibly in the making of statements it should, nevertheless, be concerned and prepared to act as a ginger group within the profession, the performance of this role being important if the association were to attract younger members of the profession who presently felt excluded from the operations of the Law Society.

Several speakers stressed the importance of the educational activities which the association proposed to conduct and some felt this to be its most important purpose.

There was discussion on the form that the association should take if it expanded into a national body and the general consensus of opinion appeared to be that regional branches should be formed and that these should have power to make public expression of their own views without too much concern being paid to the obtaining of a uniform national view. It was felt that the association would run into the same difficulties as those which faced the Law Society if it concerned itself too much with the desirability of speaking with one voice. The public might very often benefit from the expression of different points of view by different branches of the association.

Following the discussion a resolution was moved and carried that the formation of the association be supported. Elections of officers were then held and the committee now comprises Mr J. F. Burn as chairman, Mr A. K. Grant as deputy-chairman, Mr I. J. D. Hall as secretary and Messrs O. T. Alpers, C. B. Atkinson, B. Hudson, J. E. Ryan and A. J. Forbes as committee members. Immediately prior to the elections a speaker had asserted that the silence of some senior lawyers was due to their desire not to prejudice their chances of a judgeship.

A. K. GRANT.

Mr Joel Carlson on Violence—The following is an extract from a speech by Mr Joel Carlson, the South African lawyer and member of the International Commission of Jurists, at the last meeting of the Fourth Committee of the United Nations:

"Violence is the arbitrary arrest of persons and their indefinite detention in solitary incommunicado for the purpose of endless interrogation.

"Violence is a system of informers and arbitrary restrictions, where the individual is unsafe and unsure of his actions or his future.

"Violence is the refusal to educate all sections of the population to the best of their ability.

"Violence is the forcible removal of persons from their homes and the forcible breaking up of the family life.

"Violence is the failure to provide sufficient medical care and food and allowing men and women to die of starvation and of diseases which could be treated before they reach the stage of death.

"Violence is the regimentation of people, the limitation of their right to work, to play, to travel and to live where they will." *The Review* of the I.C.J.

CORRESPONDENCE

Abortion

Sir,

Like your correspondent P. J. McLeod (18 July issue), I too read with interest the article in your issue of 2 May on "The Anthropological Problem of Abortion", and also the articles on the same subject in your later issues of 18 July, 1 August and 22 August.

P. J. McLeod sums up the position correctly when he says ". . . those who wish to liberalise abortion laws can only do so if they can establish that a foetus is not human . . ." But it is absurd to suggest that a human foetus is not human. To quote the Journal of the California State Medical Association ". . . a curious avoidance of the scientific fact, which everyone really knows, that human life begins at conception, and is continuous, whether intra- or extra-uterine until death. The very considerable semantic gymnastics which are required to rationalise abortion as anything but taking of human life would be ludicrous if they were not often put forth under socially impeccable auspices"; and Doctor R. S. J. Simpson: "It is a fact of biology that species reproduce their own life. Horses beget horses, dogs beget dogs. If, as a result of sexual union between a man and a woman, 'something' begins to develop in the uterus of the woman and shows the characteristics of life (growth and differentiation), then this is human life".

It makes no difference to vaguely assume that human life is more human post-born than pre-born. What is critical is to judge it to be, or not to be, human life.

The foetus is not a "future" or "potential" human being—there is no such thing—to paraphrase Professor Joyce of St. John's University, Collegeville, Minnesota, in his book "Let us be born": "They assume that a person cannot exist before any of his potential is developed. But at conception, the most important of all realities of the human person is fully developed. This is the reality of his *being*. Potentiality can exist only in the actuality of an individual being, and a human being always *has* undeveloped potential, no matter how long and active his life on earth may be (e.g. there is scientific evidence that only about 5 percent of the brain potential of the normal adult is ever realised). In the human zygote all the human potentialities *actually exist*, though in an undeveloped manner (e.g. the zygotic self cannot actually breathe, but he *actually has* the undeveloped capacity for breathing). They fail to distinguish two radically different kinds of potency—first, the *potency* to *cause* something to come into being (e.g. the ovum and sperm separately have the potency to cause a human being). Secondly, the *potency* of an existing being *to become fully what it IS* (e.g. the zygote). A zygote is not an ovum plus a sperm, it is an entirely new kind of being".

"Because we think of man as evolving from animal life, it is argued that the human zygote passes through a plant and/or an animal stage of development before it becomes human. But man's way of making and operating machines is not nature's way of conception and development. Organisms begin with all their parts existing together in an implicit manner: growth is the internal revelation of the *being* that is fully present in its own conception. It is as false to say that the offspring of human parents is ever simply vegetative or sentient in nature as to say that a computer thinks".

No one has produced scientific evidence to show that a human foetus is not a human being; for who can prove that a human being does not exist at the beginning of his own growth? But the modern scientific evidence supporting the conclusion that a unique human being exists from conception is overwhelming.

Any benefits thought to flow from abortion accrue through and because of the killing of the unborn child, and no amount of pseudo-philosophising and statistic-juggling can hide that fact. That is as certain as it is that women will continue to make their own choice—some for abortion—just as some people will continue to perpetrate every crime in the calendar, through either deliberate choice or ignorance.

Society does not "arrogate the decision regarding abortion to itself in the form of legal strictures" as W. A. P. Facer says. To quote Simpson again "Laws of a civilised society are not the mere reflection of contemporary public opinion, but must also acknowledge and actively protect the inalienable human rights of each of its members. If a society is to remain civilised, no one can be permitted to take the life of any innocent human being".

Yours faithfully,
J. M. ARMSTRONG.