The BEACON SpotLight

A Study of Constitutional Issues by Topic

Issue 2: Of Slavery and Abortion

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37th Anniversary of **Roe v. Wade**

Mere mention of the word “slavery” today conjures up a regrettable period of American history where men owned men, in stark contrast to the ideals of life, liberty, the pursuit of happiness and unalienable rights discussed within the Declaration of Independence.

Though Thomas Jefferson referred to the slave trade within his original draft of the Declaration as an "assemblage of horrors" and “execrable commerce”, he owned slaves.

Many Americans today chastise Jefferson and the other founding fathers who were slave owners as hypocrites; few people today can understand why these influential men did not end the travesty sooner.

Slavery, after all, was all about the strong and powerful oppressing the weak and defenseless into a demeaning life of drudgery according to the whims of the slave owner.

As soon as the timetable of the Constitution permitted (by Article I, Section 9, Clause 1), President Jefferson signed into law an act outlawing the trading in foreign slaves (Volume II, Statutes at Large, Page 426, 1807 [effective January 1, 1808]) and the foreign slave trade became an act of piracy punishable by death in 1820 (III Stat. 600).

Census numbers show the number of slaves within the United States grew from 1,191,632 in 1810 to 3,953,760 in 1860.

Since slaves were no longer imported, the tripling within this period therefore came from births within the U.S. This fact provides convincing evidence that slavery did not adversely affect the quantity of life.

Although slavery was antithetical to liberty, it at least allowed life. While quality of life is of great importance, of arguably far greater importance is life itself.

The U.S. supreme Court, in their infamous 1857 Dred Scott case, upheld slavery, for that was the only decision they were empowered to make at the time considering the laws of the era. It was not until the South succeeded from the Union (and out from under the Constitution's protections of property) that the wheels of progress and social justice were set in motion which soon enacted laws and amendments outlawing involuntary servitude (except as punishment of crime) within the U. S. That the supreme Court upheld a social travesty in one decade but that this travesty was abolished in the next is but a prelude of things to come.

As great an injustice was slavery, there is a far greater injustice allowed in the United States today against the most helpless of victims who can do nothing in their own defense — that of aborting unborn children.

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It is difficult to estimate the total number of slaves which lived in the American colonies and early States, but with 4 million slaves alive in 1860, perhaps there were again that many that had lived previously. It is likely their number did not amount to more than 10-12 million in total.

There have been an estimated 50 million abortions carried out in the United States in the 37 bloodied years since the U.S. supreme Court's infamous Roe v. Wade case decided on January 22, 1973 (with many millions more performed before this case without apparent court sanction).

If those aborted fetuses would have instead been allowed to come to term, and had been allowed to live life at least as slaves, Americans today would still be four to six times greater at fault than the travesty allowed by our fore fathers.

Of course, these unborn children were not even given the chance afforded a slave in early America, to live life outside their incubator's womb (if a woman voluntarily seeks to end the life inside her, it seems extremely unjust to refer to her as a "mother").

Capital punishment is reserved only for the most heinous of crimes; instead imprisonment for a term is generally given in acknowledgment that life is sacred even for all but the most contemptuous of the condemned. This finding shows that incarceration, or involuntary servitude (which no longer even stretches to "hard labor"), is of far lesser punishment than death.

Of course, the only crime committed by the unborn child who is voluntarily terminated at the “choice” of another is being conceived during a period of profound indifference and legal ignorance.

Every year, our fallen veterans are remembered on Memorial Day for their sacrifices to maintain our life and liberty, yet there have been numerous years where there have been more unborn U.S. children aborted in that single year than the total number of troops that have died in combat in all the American wars and skirmishes combined since the Revolutionary War (about 1.3 million).

Most all Americans know that abortion was legalized in America in the infamous U.S. supreme Court case of Roe v. Wade, where the Court stated:

> "We, therefore, conclude that the right to personal privacy includes the abortion decision, but that this right is not unqualified and must be considered against important state interest in regulation".

Upon a careful reading of the case, however, one will find that the court did no such thing as legalize abortion.

Finding that the right of privacy extends to the abortion *decision* in no way protects and legalizes the abortion *procedure*. That the term "the abortion *decision*" was of utmost importance is shown by its repeated use within the ruling.

When law is consistent, judges have no choice but to enforce it. "Judicial activism" is merely proof of legislative inconsistency or improper enforcement procedures. When one law contradicts another, it is up to the judicial system to attempt to sort out the mess (when the legislature fails to cure their ills).

Regarding Roe v. Wade, one must clarify the implications of the ruling. It is easier to understand a simple example: if the police capture a purse snatcher but fail to uphold law and proper procedure during the arrest or in the gathering of evidence (to uphold the principles of "Due Process", "innocent until proven guilty", etc.), then it is quite possible that the judge or jury will let the criminal go free without punishment. It is absolutely incorrect to infer from this hypothetical case that purse snatching was made legal, however.

So too is it important to understand the legal implications in real cases such as Roe v. Wade.

When a doctor commits the crime of abortion where such a procedure is properly and consistently made illegal, then that doctor and the willing pregnant participant can and will suffer the prescribed punishments when found guilty, just as any other crime properly delineated and enforced.

However, when a doctor commits the crime of abortion where such procedure is inconsistently made illegal, then both the doctor and the patient may quite likely go free without punishment. This is all that occurred in Roe v. Wade.

The remedy, of course, is to remove inconsistencies at law, not to throw out the baby with the bathwater.

The 1973 Court brought to light the inconsistencies of the abortion law of Texas under which "Roe" was being tried. The Court even footnoted (without comment) Wisconsin's clear law that an "unborn child" was "a human being from the time of conception until it is born alive". Such a clear definition proves impenetrable to court activism when properly supported.

The right to personal privacy may well include the "abortion decision", but these expressly-limited words do not in any way stretch to include the "abortion procedure". Such procedures are well within the prescribed authority of the state to limit.

Planned Parenthood has become the leading provider of abortions in the United States over the 37 years since Roe v. Wade. It is difficult to defend against the argument that Planned Parenthood has grown into a self-serving business organization that promotes abortion to maintain and increase its budget and influence.

Even its radical founder, Margaret Sanger, no stranger to controversy herself, wrote in opposition to abortion:

> "While there are cases where even the law recognizes an abortion as justifiable if recommended by a physician, I assert that the hundreds of thousands of abortions performed in America each year are a disgrace to civilization" (*Woman and the New Race* [1920]).

Sanger was a fervent proponent of birth control and even sterilization, but not abortion. Some of Sanger's notoriously memorable quotes are (from her book, *The Pivot of Civilization* [1922]):

> "The emergency problem of segregation and sterilization must be faced immediately. Every feeble-minded girl or woman of the hereditary type, especially of the moron class, should be segregated during the reproductive period. Otherwise, she is almost certain to bear imbecile children, who in turn are just as certain to breed other defectives. The male defectives are no less dangerous. Segregation carried out for one or two generations would give us only partial control of the problem."

> "Moreover, when we realize that each feeble-minded person is a potential source of an endless progeny of defect, we prefer the policy of immediate sterilization, of making sure that parenthood is absolutely prohibited to the feeble-minded."

Planned Parenthood was formed by Sanger when she found that she needed a "cosmetic" change for her earlier organization, the American Birth Control League, which had developed too much of a "Nazi smell" of racial purification to continue to grow its influence (not that Sanger renounced her positions).

Indeed, almost four times as many black women and two and a half times as many Hispanic women have abortions today as compared with white women. It is well past time that leaders of minority ethnic groups begin to understand the devastating effect abortion has on their race and their psyche, and learn that abortion is not about "choice" but racial and hereditary purity and eradication of the poor.

Advocates of state-sanctioned abortion tell horror stories of young women of yesteryear aborting their fetuses in back rooms with coat hangers to support their contention that abortion is the lesser of two evils.

However, such practices were from a time when social mores were such that an unwed mother was socially blacklisted from her community and the resultant shame of a growing belly without a ring on the finger affected families in ways which are essentially irrelevant today. The very loosening of society's moral compass against unwed mothers and even teenage pregnancies has undermined one of abortion's most potent historical arguments.

Abortion is now sold on convenience and freedom from accountability than anything else. Inconvenience and irresponsibility are hardly shining principles to rally around when life and death are concerned.

The manner by which society protects its most vulnerable foretells its future. Abortion, as slavery, will inevitably be but a dark footnote in American history. Americans may well soon be judged, but it is not the framers of our government which bear the greatest fault.

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