DISHONEST TO GOD

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continuum
LONDON • NEW YORK

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Introduction

The idea of God (or of gods) is central to religion, and without it religion would not exist. A religious person should be able, without either embarrassment or irony, to make mention of the God in whom he or she believes. My concern in the following pages is to consider some aspects of the role of religion, and therefore the idea of God, in the twenty-first century, as it relates to legislation and politics. To discuss religion and politics historically would be a bold task, and one that only a professional historian could undertake. My aim is more modest. It is concerned with religion and politics as they are currently practised. It is the Christian religion and recent politics that is at the centre of my enquiry, though sometimes other religions may be relevant. It is impossible to exaggerate the influence of Christianity on our culture and traditions, but also on our political thought and legislative practice. However, important though the part played by Christianity has been, no one doubts that the Christian religion has now lost its dominant and taken-for-granted position in the lives of the majority of citizens, many of whom are totally ignorant of the text of the Bible and of what goes on in church, and for whom the word 'God' is meaningless except as an exclamation. It is necessary therefore to consider what part Christianity should continue to play in legislation and politics, and what influence it has and should have in Parliament, whose responsibility is to legislate for Christian and non-Christian alike.

In the Judaeo-Christian tradition, of which the Church of England is part, God has a triple role. First, He is the creator of the universe, and, as the climax of his creation, of human beings, formed in his own image. Then, second, for those human beings, he is the ultimate source of morality, having revealed his laws to them alone. Third, he is the object of reverence and love, and the source of hope. However flawed the world may be, however much suffering it contains, God has promised that somehow or other all will be well, for those who put their trust in him. For Christians, this promise was historically confirmed through the life and death of Jesus, sent to earth as both God and man, to show that God cares about individuals, and can grant them salvation at last, if they follow his commandments, newly revealed through the Messiah. For Christians, this God is tripartite, Father, Son and Holy Ghost. The third member of the Holy Trinity, the Holy Spirit, is the giver of hope, security and truth: '*Non vos relinquam orphanos*' ('I will not leave you comfortless'). Though death is, in one sense, the end, and though what happens after death is a mystery, yet somehow the sharpness of death is overcome by God, as is proved by the death and resurrection of Christ.

This is the tradition in which I was brought up, the tradition of the Church of England, and this is what forms the background of the culture within which I, and many others of my generation, feel at home. Indeed, as far as I myself am concerned, the Church of England has played a significant part in my life. I went to a High Church school; until I was in my mid-sixties, I never lived anywhere except in a cathedral city. Church music has been one of my greatest passions, and in Oxford, where I spent most of my adult life, there were almost unlimited opportunities to enjoy liturgy and sacred music.

At the present time, having for long been a minority interest, the question of religion, its truth or falsity, its relevance or irrelevance to the way we should think and should live our lives, has

come back into prominence as a subject of debate and disagreement; not as fierce, perhaps, as the controversies in the latter part of the nineteenth century, but significant nevertheless, especially in the field of morals and politics. Avowed atheists, such as the ubiquitous Richard Dawkins, once a quite rare bearded and sandal-wearing breed, are now everywhere to be heard, and are matched by people asserting that, whatever the atheists may think of religion, God exists, the Bible is true and religion is on the increase all over the world. Statistically this seems to be a fact, for good or ill.

I personally would not at all want religion to come to an end, and I give some reasons for this in Chapter 5, below. But there were those at the end of the nineteenth century who predicted that it would necessarily decline and die, succumbing at last to science. Dawkins and other atheists assert that this time has come: that religion should now curl up and die, being not just untrue, but damagingly so. For my part, I have increasingly come to think that one ought to try to be a bit more clear-headed about what religion essentially is, and what, if any, authority it should command, and over whom. I have been much influenced in this both by the writings of the former Bishop of Edinburgh, Richard Holloway (see especially, *Godless Morality*, Canongate 1999, and *Doubts and Loves*, Canongate 2001) and by my former tutor and friend, Dennis Nineham, who, more than thirty years ago, wrote:

'The characteristic religious difficulty today is a metaphysical difficulty at least in this sense: where men seem to need help above all is at the level of the *imagination*. They need some way of envisaging such realities as God, creation and providence imaginatively in a way which does no violence to the rest of what they know to be true. They need to be able to mesh-in their religious symbols with the rest of their sensibility in the sort of way supranaturalist and messianic imagery meshed-in with the sensibility of 1st-century people.' [Emphasis added]

The problem is thus partly historical. We can, helped by long tradition and by a familiar culture, partly put ourselves in the place of the first disciples, the Gospel-writers. We can even partly understand St Paul, the true inventor of Christianity as a religion separate from Judaism. But their natural imagery is not ours, much as we may love it, and all its associations. This is because of all that we know that they did not. Our viewpoint is inevitably different, and we cannot honestly overlook the gap that exists between us and them, or pretend that it does not exist. It is the issue of this gap that I try to address in the following chapters, not as a theologian, but as someone above all interested in morality, politics and the law, as well as in the concept of imagination itself, which, as Dennis Nineham understood, is central to the very existence of religion. It hardly needs to be said that other animals are not religious, nor are they, like us, politicians or law-makers. Neither do they have the need to explain the world to themselves. It is the human imagination that both demands and supplies such all-embracing explanations; human beings alone need to place themselves in the universe as a whole, and religious belief has historically been their way of doing this. So I want, albeit within a very narrow and recent framework, to look at the ways in which religion should and should not influence our moral and political decision-making.

It is misleading to say that this country is already an entirely secular society; but it would be equally wrong to overlook the ambiguous position of religion within it, and the curious role that religion plays in political debates, different certainly from its role in the USA, but equally demanding of examination and equally prone to accusations of hypocrisy or downright dishonesty. Part of the difficulty of conducting any study such as this is that the British do not, on the whole, care to talk about religion, at least not about their personal beliefs. In a general way, as I have suggested, religion versus atheism has become a topic of public

debate. But the debate is conducted in relatively abstract, or at least historical, terms, and does not involve too much in the way of private sentiments or aspirations. This has meant that it is often difficult to separate arguments according to whether they are religious or secular, and if I have misrepresented anyone's beliefs I can only apologise.

CHAPTER ONE

Life, Death and Authority: A Legislative History – Part One

In 2003, in a Ditchley Foundation Lecture, Lord Bingham of Cornhill, formerly Lord Chief Justice, reflected on the changing tasks of judges at the beginning of the twenty-first century. One change that he noticed was the extent to which judges were being called upon to make overtly moral pronouncements in court. It is seldom possible now to assert that 'this is not a court of morals'. Many judgments, especially in the higher courts, turn on whether or not a human right has been violated; and this, in the absence of a Bill of Rights, or a body of precedent, is itself a moral judgement.

For instance, the question whether a human right has been violated in ordering the sterilisation of a mentally disabled adult is plainly a question of whether there are any circumstances in which it can be morally justifiable to carry out such an act. One could argue on Utilitarian[1] or consequentialist grounds that

1. When I use the word 'Utilitarian' I am referring to the philosophical and political theory whose author was Jeremy Bentham, and whose less unambiguously committed follower was John Stuart Mill. This is the theory that a good measure is one whose consequences lead to the greatest happiness of the greatest number. The word (without a capital letter) is often, confusingly, used in a derogatory sense, to describe a measure, or an argument that looks to purely materialistic or monetary advantages. I do not use it in this sense.

more good than harm would come out of the procedure, or at any rate that much harm would be avoided; on the other hand, according to the Roman Catholic theory of the inviolability of the human person, one could argue that it would always be wrong. It would also be wrong on the widely accepted medico-ethical grounds that informed consent is necessary before any such intervention may be carried out, and someone who is mentally disabled is incompetent, that is, unable to give consent. Whatever a court decided, probably on largely pragmatic grounds, in such a case, it would be at least the beginning of a precedent, and would doubtless be usefully referred to in later cases. But there is no pre-existing definitive list of human rights to which judges may turn to settle such questions. The United Nations Universal Declaration of Human Rights (1948) was more aspirational than binding in international law. It was an essentially moral pronouncement of how people ought, and especially ought not, to be treated.

To take another example: some years ago, an NHS hospital in Cambridgeshire refused to operate for a third time on a baby with a severe heart condition who had twice failed to respond to surgery. The popular press claimed that this was a denial of the baby's fundamental 'right to life'. The hospital argued not only that the baby had suffered enough, and the chances of her surviving a third operation were very small, but, bravely, that to operate in these circumstances would be a wrong use of scarce resources, and other babies who could benefit would be deprived of a cot in intensive care. If the parents had sued the hospital, the court would have been faced with an essentially moral question. Yet such questions are not just matters for individual conscience. Since the court has to decide them and since whatever becomes law, or an accepted interpretation of law, applies equally to everyone, they are also questions of public policy. It seems the distinction between public and private morality has become

harder and harder to draw. A judge will, of course, be guided by his own sense of what is right in the particular case before him; but he must also consider how his judgment will affect general policy in the future.

As with judges, so with legislators. There seems to be an increasing number of situations in which legislation is required to regulate a practice which may intuitively seem to many people wrong, or which should be practised only if hedged about by conditions and safeguards for fear of abuse. In proposing and debating such legislation, members of Parliament must express and defend often sharply conflicting moral views. An example of such legislation was the 1956 Cruelty to Animals Act, and the subsequent updating in 2004 of the Animals (Scientific Procedures) Act regulating the use of animals in laboratories. No one was, needless to say, in favour of deliberate cruelty to animals; and most people held that what was needed in the new Act was some regulation of how animals should be treated in the course of research. But some thought that human beings had no moral entitlement to use other animals for their own purposes at all, whether in laboratories or in the farmyard (the view of Animal Rights campaigners, not I think represented by anyone in Parliament, but a forceful and dangerous group in the outside world); many held that, in general, such use was and had traditionally been justified, as the beneficent practice of dairy and pig farming, to say nothing of horse-racing, showed; and many held that in the case of the use of animals in research, the benefits to human health and welfare far outweighed the harm to the animals concerned. Strict regulation of animal use was the compromise, and, for this, legislation was an absolute requirement. Such legislation is always firmly founded on moral arguments.

Perhaps the most famous instance of such morally founded legislation since the Second World War was the legislation that abolished capital punishment in the UK in 1965. Some people

supported this legislation on the general moral grounds that deliberately to kill anyone, even a convicted murderer, was wrong, others argued that the death penalty was morally dangerous, because if subsequent evidence appeared that showed there had been a wrongful conviction, it was by then too late to remedy it. Both arguments were overtly moralistic.

The other piece of legislation of the same period was that which decriminalised homosexual acts in private between consenting males. This was the outcome of the Wolfenden Report published in 1959, and the subject of a fierce theoretical and academic debate between Lord Justice Devlin and H. L. A. Hart, Professor of Jurisprudence in the University of Oxford at that time (see the lecture delivered in 1959 by Lord Devlin as the second Maccabaean Lecture in Jurisprudence of the British Academy, entitled 'Morality and the Criminal Law', and later published as part of *The Enforcement of Morals*, 1965 [1968]; and H. L. A. Hart, *Law, Liberty and Morality*, 1963, and *Essays in Jurisprudence and Philosophy*, 1983, Essay 11 – all published by Oxford University Press). In this dispute the issue was precisely the relation of the law to morality.

Fortunately, in both of these instances, parliament voted for a change in the law in the direction of liberality, giving a strong moral lead to the country as a whole, in the face of fierce opposition from some sections of the press and many individual diehards. The issues have not remained on the agenda, but they serve as an example of how law-making is governed by moral reasoning, and how what may be called public morality, expressed in the will of Parliament, can sometimes prevail over private convictions or the campaigns of the popular press.

The same cannot be said for those questions of law and morality that are the subject of this chapter and the next. I shall examine them in some detail since they are recent and unresolved, at least in the sense that they are sure to come back to Parliament

again and again. All of them are questions involving life and death. The fundamental issue is whether there are circumstances in which it is morally justifiable deliberately to take the life of a human being, and whether, therefore, the law should permit this to occur in specified cases. It is plain that strong moral convictions are brought to the consideration of such issues, as they were to the two major pieces of legislation in the 1960s. And, as was true then, the moral principles invoked were often in conflict. My specific interest, in what follows, is whether those moral convictions that are derived from religious belief carry special authority. This will turn out to be a difficult question to answer, because of the historically intimate connection between religion and morality, and therefore the conceptual difficulty in separating the two domains. Those who hold strong religious views will of course suggest that there is not a mere difficulty in such an attempt, but an impossibility; and that such a separation should not be contemplated, not for logical but for moral reasons. However, as I hope to make clear, I believe that a separation is of great importance. It is probably an over-simplification to describe ours as now a secular society. But there is enough truth in the description to make it inappropriate and conceptually confusing to let morality and the law remain grounded and justified only in the name of religion.

The first issue I shall consider is that of abortion. In November 1965, Lord Silkin introduced a Private Member's Abortion Bill in the House of Lords, which received strong support at Second Reading and had an unopposed Third Reading in March 1966. However, Parliament was dissolved soon after that, and the Bill did not reach the statute book. At the time, the law covering abortion was contained in section 58 of the Offences Against the Person Act (1861). According to this section, to carry out an abortion was a criminal offence punishable by life imprisonment. However, the law had become uncertain. For one thing, no

woman who had carried out an abortion on her own foetus had been charged for many years. More significantly, within the previous two years three different judges, when charges were brought against a doctor, had so interpreted the law as to make it lawful for a doctor to carry out an abortion when he had done so after concluding that the health of the woman would be seriously damaged if the pregnancy were to continue, and had so instructed the jury. The process in effect involved two doctors, the woman's GP and a gynaecologist or obstetrician, who had to be persuaded by the GP to proceed with the abortion. By the early 1960s many abortions were thus lawfully carried out, but it was not necessarily straightforward either for the woman or for her GP. The pregnant woman had to persuade her doctor that she was incapable of continuing the pregnancy without physical or mental harm; he, in turn, had to persuade a specialist of the same alleged facts. There were inevitable delays and uncertainty. Doctors were, for the most part, prepared to go along with this, in spite of the uncertainty involved, but many of them charged high fees for doing so. One of the aims of Lord Silkin's Bill was to remove this uncertainty, and also the social injustice involved in having to pay a fee for an abortion that only the relatively wealthy could afford. Exploitation by unscrupulous doctors was a real threat.

Lord Silkin also aimed to extend the scope of legal abortion beyond cases where the mother's health was supposed to be at risk; and, above all, to reduce the number of illegal, back-street abortions, which in 1965 were estimated at more than 100,000 a year, and on the increase. In 1964 there were 50 deaths from illegal abortions and approximately 40,000 cases of women admitted to hospital as the result of such abortions; yet fewer than 50 people were convicted of carrying them out.

Lord Silkin started another Bill in 1966, soon after the new parliament began, but in the event handed it over to the young Liberal MP, David Steel (now the Liberal Democrat peer, Lord

Steel) who had won the ballot for a private member's Bill in the House of Commons. This Bill had its Second Reading on 22 July 1966. Although by now opinion polls showed that a huge majority of the general public wanted the law changed, the Bill had a rough and slow passage through the House of Commons, which involved more than 104 hours of debate and at least one all-night sitting. It was much amended, and was considerably less liberal than the original Silkin Bill had been, by the time it came to the House of Lords. In its compromise form it finally became law late in 1967.

In its Second Reading, where principles rather than details were discussed, opposition to the Bill in both Houses came largely from those who, while favouring reform of the then-current legal position with its uncertainty and likely injustice, nevertheless objected to the clauses of the Bill that would widen its scope, to permit abortion for so-called social reasons. These were reasons concerned not with the immediate health of the mother, but with the general well-being of the family, including existing children; and in addition there was to be permitted abortion based on the desire of the mother not to give birth to a child who would be severely disabled. The objectors in both Houses wanted a highly restricted Bill, which would establish in statute the lawfulness of a doctor's carrying out an abortion if and only if continuing the pregnancy would be harmful to the life or the health of the mother. These people were specifically opposed to any widening of the scope of permissible abortion, but agreed nevertheless that the current law was too indeterminate.

There were others, however, who, though they reluctantly agreed that in the case of risk to the mother's life (not to her health) an abortion must be permitted, were completely opposed to any change in the law, on the grounds that this would breach the principle of the sanctity of human life. After all, they argued, a foetus is both human and alive and its life must therefore be

protected as much as that of any other human being (with the exception, in rare cases, of its mother).

Looking back at these debates, one remarkable thing is the extent to which the question of abortion was seen as a medical matter, the decision whether or not an abortion should be carried out a wholly medical decision. This partly explains the opposition to the 'social' clauses of the Bill. For example, speaking in the House of Lords Second Reading debate, the eminent surgeon, Lord Brock, objected to the social reasons for abortion, saying that if these clauses in the Bill remained, the 'boundaries of medical indications would have been overstepped'. And he claimed to be speaking for most of those obstetric surgeons who would actually carry out abortions. At least one speaker suggested that the dislike that doctors and nurses felt for abortion itself constituted a proof that it was wrong. Although several objectors expressed their fears that the Bill if it proceeded unamended would lead in the direction of Abortion on Demand, hardly anyone spoke of any right that a woman might have to decide for herself whether she wanted the pregnancy to continue (though it is true that the Abortion Law Reform Association, run by women, was quoted as holding that every woman has a right to choose an abortion, and every child a right to be born wanted. But this was quoted in the parliamentary debate, only to be derided). And although supporters of the Bill spoke of the distress and mental anguish of some women who sought an abortion, most spoke as if this were nothing other than a possible symptom to be weighed up by doctors as an indication, or not, for intervention. Neither feminism nor human rights had quite emerged as providing moral arguments, at least in the UK. Paternalism reigned, and it was the doctor who was the father, the woman the child, in the doctor/patient relationship.

There were some notable exceptions. In her winding-up speech in the House of Commons Second Reading debate, Renee Short

spoke in favour of the Bill and against the amendment proposed by William Wells, MP for Walsall North, which would have denied the Bill a Second Reading and thus killed it. Her arguments were largely based on the numbers of women who favoured a change in the law, and on the sufferings of those who now sought an abortion. Again, Dr John Dunwoody (member for Falmouth and Camborne) addressed the objection that a change in the law would undermine respect for the sanctity of human life. He said: 'There is, I hope, more to life than merely survival and we should be also thinking about the quality of that survival.' He went on to paint a picture of a mother with a large number of children and burdened by poverty who could not face another pregnancy. 'If one looks at it in that light one can see that, far from undermining respect for the sanctity of human life, this Bill could enhance respect for human life in the fullest sense of the phrase.'

It is upon the principle of the sanctity of life that the Roman Catholic Church relies in its total opposition to abortion. It does not mean, of course, sanctity of life in 'the fullest sense' invoked by Dr Dunwoody. When Roman Catholics (and indeed the many others who use the phrase) speak of the sanctity of human life, they are speaking of the value not of any particular kind of life, but of human life itself, at whatever stage of development, whether conscious or unconscious, whether lasting indefinitely or lasting half an hour, whether enjoyable or wracked with pain and suffering. It is as if life is a kind of sacred fluid, in itself of intrinsic value, and to be found flowing in all human beings like blood. It is the psyche (to be translated either as life or as soul) that the Greeks believed inhabited every creature.

Aristotle was the first Greek philosopher or scientist to explore this concept in depth. He believed that the psyche entered the human embryo in various different forms at different times, first as the vegetable life, shared by all living things, then in addition, or replacing it, as the sensory life shared by all animals, including

human animals, and finally as the rational life, common to all human beings, and unique to them. The question of when the destruction of an embryo or foetus becomes the destruction of a human life thus turns on when the fully human psyche, life or soul, enters the body. Aristotle's theory of the development of life after conception, set out in *Of the Generation of Animals*, was a kind of speculative biology, within his general metaphysical framework of different kinds of cause. His notion of conception was very different from ours. He had no idea of the existence of the ovum, but thought that conception was the congealing of the menstrual blood somehow brought about by the semen. The biological sciences advanced very little after Aristotle for the next thousand or more years, and so his whole theory was taken over almost unchanged by Thomas Aquinas, who died in 1274. It became the theory of ensoulment.

However, the soul had taken on a new significance since the birth of Christianity. Although the rational soul is referred to by Aristotle as 'divine', and although it apparently entered the human foetus mysteriously from outside, it was nevertheless a biological concept. There is no possibility of a rational soul existing except in a material animal body fit in size and constitution to receive it. For Christianity, however (and here it owes much more to Plato than to Aristotle), the soul has a sanctity of its own, being destined for immortality.

At any rate, Aquinas, following Aristotle, held that the human soul did not enter the body until forty days after conception in the case of males, ninety days in the case of females. The unique exception to this law was that of the birth of Jesus, whose human life, being the life of the Holy Spirit, had come into being at the moment of conception, without going through the vegetable and animal developmental phases. Like Aristotle, Aquinas did not believe that a rational, that is a human, soul could exist except with a human body (thus the resurrection of some form of body was

necessary if immortality were to be the property of the soul).

Gradually, with the invention of the microscope and the discovery of the circulation of the blood, the biological sciences developed, and different developmental theories became popular, the most bizarre of which was known as preformation, according to which one could see under the new microscope a tiny man, a homunculus, with arms and legs, within each spermatozoon, to which, at conception, a rational soul would be added. A different version of this theory claimed that the little man was to be found not in the sperm but in the ovum (Ovism) (see J. A. Needham, *History of Embryology*, Cambridge University Press 1959, pp. 168ff, and D. A. Jones, *The Soul of the Embryo*, Continuum 2004, pp. 165–166).

For the Roman Catholic Church, the question of how and when the fully human soul became attached to the body, though still of theoretical interest, came to seem less practically important. In 1869, Pope Pius IX, in clarifying which sinners would face automatic excommunication, pronounced that among them were those 'procuring abortion, if successful, without distinguishing whether the foetus was animated or not' (*Constitution Apostolicae Sedis*, 1869). This position was reaffirmed thereafter, as we shall see. In fact abortion at any stage of a pregnancy was pronounced to be a grave sin, and the question of 'animation' or ensoulment could be allowed to drop into the background, a matter for theological dispute, without practical importance. The transition to a more pragmatic, this-worldly view of the human foetus was significant. It showed a church more concerned with what it saw as harm towards an entity actually existing in this world – harm to what was indubitably a living creature, the foetus – and less concerned with God's mysterious workings in creating a soul. At any rate, by 1967 there was never any doubt that the Roman Catholic Church and its members would strongly oppose the Steel Bill on the grounds that human

life was sacred at whatever stage of its development, whether ensouled or otherwise.

The use of the word 'sacred' reinforces the religious background to this source of opposition. To describe something as 'sacred' is to invest it with an air of the supernatural, to give it a mysterious value above the value we may attach to the merely profane. Nevertheless, those who in the course of these debates made use of the principle of the Sanctity of Life for the most part denied that they did so because they were Roman Catholics, although they did not deny that they were in fact members of the Church. And this leads to the difficulty that will become familiar in the following three chapters. It is very hard to distinguish those whose arguments and votes were determined by their religion from those whose position was a purely moral one which, as it were, just happened to be in accordance with the teaching of the Church. The Church itself would deny that this was a difficulty. The distinction between religion and morality would be a false one. God, and the Church that gives expression to His commands, is the source of and the ultimate authority on morality. If you want to know how you should vote on the Abortion Bill, find out the official position of the Church. If you are a good Catholic, you will of course consult your conscience – that is, your own sense of what it is wrong or right to do – but your conscience, if properly taught and properly consulted, will come up with the same answer that the Church would give. Consulting a priest is the equivalent of properly consulting your conscience. (Both Catholics and Protestants can therefore subscribe to the Lutheran belief that the conscience is the voice of God speaking within us; but the sense of this belief is very different for each.) It is only when practising Catholics find some part of the teaching of the Church morally objectionable (most commonly perhaps over the use of contraceptives) that they find themselves in the uneasy position of having to make a distinction between religion

and morality. And the general coincidence of religion and morality, as we shall see, is not greatly different for those who are members of other Christian Churches. It is taken for granted by many Christians that religion is the source of morality, or that the main point or purpose of religion is to provide moral certainties, a view shared by many who are not religious themselves.

Long before Christianity, Plato put into the mouth of Socrates the question whether something is right because the gods command it or whether the gods command something because it is right. In the Commons Second Reading debate on abortion, one Roman Catholic MP, Norman St John Stevas (now Lord Stevas) seemed to contemplate the same question, and to answer it in favour of the priority of what is right. He said:

'The Bill is fundamentally flawed because it rests upon the denial of the sacred character … of human life. The principle was recently reaffirmed by the House when it voted for the abolition of the death penalty. This principle is not one dependent on the recondite speculations of scholastic theologians as to when the soul does or does not enter the body, because nobody can know that. It rests upon the moral principle, all but universally accepted, that human life has an intrinsic value in itself and that innocent human life should never be taken.' (*Hansard*, 22 July 1966)

The implication of this reversal of roles, a shared morality having priority over the teachings of the Church, are profound, and will be considered later, but were, unsurprisingly, not pursued in the debate.

In the House of Lords, the following year, though the Duke of Norfolk, the senior Catholic spokesman, did not take part, the Earl of Longford, an enthusiastic Catholic convert, spoke somewhat confusingly about the relation between the doctrines of the Church and individual conscience, confessing that he could imagine circumstances in which the life of the unborn child might have to be sacrificed to that of the mother, as a matter of conscience (but in fact this was also the position of the Church).

He assured the House that they did not have to choose between the Catholic view of abortion and that of the rest. 'There is no doubt that if we were forced to take that decision, a relatively small proportion of the House would take the Roman Catholic view.' Instead, he said, 'we have a solemn choice today' and must consider it 'in the light of the best and most enlightened contemporary opinion'. This was the choice between, on the one hand, upholding the principle of the sanctity of human life, in defence of which he called upon '2,000 years of Christian tradition' and, on the other hand, abandoning this principle. (*Hansard* HL, 19 July 1967). Lord Longford thus drew a distinction between the Christian tradition and the specific doctrines of the Roman Catholic Church, both equally upholding the doctrine of the sanctity of human foetal life. So was his an argument based on religion or was it not? I think his repeated invocation of the concept of sanctity shows that, though subject to the questioning of individual conscience, his judgement was a religious judgement. But perhaps a better way to characterise it is as the judgement of one who genuinely could not distinguish moral (or conscientious) arguments from those based on faith.

Immediately after the Earl of Longford's speech, Lord Soper, a prominent leader of nonconformist Christianity, a profoundly religious man, and recognised as such by all denominations of the Christian Church, rose to defend the Steel Bill, including its 'social clause' that would permit abortion not just to save a woman's life or health, but to save her from harming herself and her whole family if the pregnancy continued. Lord Soper's arguments, in this part of his speech, were entirely based on compassion – that most central of Christian virtues – and he cited specific cases with which he was familiar: that of a pregnant sixteen-year-old child, the victim of rape, terrified literally out of her wits by what had happened and was happening to her; and that of a poor Irish woman, exhorted by her priest to regard her eighth pregnancy as

a blessing, who said: 'I wish to God I knew as little about it as he does.' Lord Soper argued that the operation of the social clause – deciding, that is, that the social harm of the pregnancy's continuing outweighed the value of the foetal life – was tantamount to 'ordaining' the doctors to whom it fell to make the decision, giving them not merely medical but also moral authority (the same argument that was used by Lord Brock to oppose the Bill). It would make the medical profession 'the custodians of the sacred mysteries as well as the medical mysteries' (*Hansard* HL, 10 July 1967, p. 39) and this might prove an impossible burden for them to take up. He therefore threw into the ring, but did not pursue the idea, that the logical outcome of the proposed reform would be abortion by consent, or abortion on demand. Moving on to what he called the theological arguments about when the soul appears, he said that he would 'borrow the language of linguistic philosophers, and suggest that this is the wrong question to ask'. He confessed to never having been impressed by the idea of 'instant life, like instant coffee'. 'There is no instant method of distinguishing at one point or another what is existence and what is non-existence. The whole thing is a process.' And he concluded that it was impudent of us to rest the case for the sacrosanct nature of foetal life on what was a medieval philosophy.

Perhaps what Lord Soper's remarkable speech teaches us is the complexity of the relation between religious belief, moral evaluation and theology. We may distinguish religious belief, which may in turn inform the believer's whole value system and all his moral thinking, on the one hand, from theology on the other. It is from theological dogma that the doctrine of the 'sanctity' of human life from the moment of conception derives. 'Sanctity' may thus be distinguished from 'Value', in this context an essentially moral concept (though not of course always so).

This becomes clearer when we turn to the next pieces of legislation to be considered, those concerned with research using

human embryos. The new clarity derives from the fact that, while there has been a long tradition, at least from Aristotle's time, of the value of the developing human foetus in its mother's womb, there was not and could not have been any tradition of the value of a live human embryo existing outside a woman's body, since such a thing had never existed until 1978. The question of the value of such lives was therefore wholly new, and the 'sanctity of life' had to be considered afresh in the light of the new phenomenon.

In the 1980s, it was rightly held that research using live human embryos was essential in order to improve the then-new technique for remedying some kinds of infertility, *In Vitro* fertilisation (IVF). Embryo research also seemed increasingly to promise great advances towards the elimination of monogenetic inherited disease, leading to the possibility of removing or manipulating faulty genes in an embryo *in vitro*, or even *in vivo* (a goal that has so far proved elusive). In any case, using an embryo for the purposes of research involved its destruction thereafter, since the risk of its having been damaged during the procedure would be too great to allow it to be placed in a woman's uterus. Research could therefore be equated with the deliberate killing of a live human embryo. Hence the fierce opposition to it from the same people who were opposed to abortion.

The first 'test-tube baby' was born in 1978, after the ovum extracted from a woman had been fertilised with her partner's sperm in a dish, and reinserted into her uterus. This successful birth followed numerous failed attempts, and even after the first success, most reinserted embryos failed to implant in the wall of the uterus, so that no pregnancy was achieved. By the mid-1980s, though several hundred babies had been born by IVF, the success rate was under 10 per cent. If the procedure was to be offered routinely as a remedy for infertility, continued research on every aspect of it was needed, including the composition and tempera-

ture of the fluid in which fertilisation could best take place. Any embryos used for such research, if they did not die naturally in the course of the procedures, must be destroyed. The embryos to be used in the research could either be left over from actual fertilisation procedures (for more than one egg was routinely fertilised *in vitro*, and the best resulting embryos inserted in the uterus or frozen for future use, the rest discarded) or, more controversially, they could be specially created for research, using donated eggs and sperm.

After the first successful IVF birth in 1978, there was huge excitement in the media, some people welcoming this as a miracle for the infertile, others regarding it as yet further evidence of the arrogance of scientists, taking to themselves the role of the creator, God. The latter view was reinforced by an unfortunate television programme which showed Mr Patrick Steptoe, the surgeon who, with Dr Bob Edwards, had been responsible for the first live embryo to be produced in the laboratory, peering through his microscope and exclaiming 'we've created life'. But whatever the view of the moralists, infertile couples were eagerly signing up for treatment, and it was clear that IVF would either have to be accepted (suitably regulated) or prohibited by law. However, the issues were too complex and too controversial for the immediate drafting of a Bill; so the Committee of Inquiry into Human Fertilisation and Embryology was set up in 1982 to examine all the problems, as far as they might be foreseen, and to advise the government on possible legislation. The Committee reported to the Minister of Social Security (Norman Fowler, later Lord Fowler) in the summer of 1984.

In the following year, long before the Government had finished considering and consulting on the findings of the Committee of Inquiry, and before it was ready to start drafting a Bill, Enoch Powell, the Member of Parliament for South Down, introduced a Private Member's Bill named the Unborn Children (Protection)

Bill, which had its Second Reading in February 1985. This was his opening statement in the debate: 'The Bill has a single and simple purpose. It is to render it unlawful for a human embryo created by *in vitro* fertilisation to be used as the subject of experiment or, indeed, in any other way or for any other purpose except to enable a woman to bear a child' (*Hansard*, 15 February 1985). According to the provisions of this Bill, only a single egg might be fertilised *in vitro*, and only for a specific woman, who would have to apply to take part in the procedure to the Secretary of State, after being vetted by two doctors as suitable. If she did not become pregnant within four months of having the first single embryo inserted into her uterus, she might gain a two-month extension of the permission, but if she failed to become pregnant after six months and still wanted to try for a child she would have to start all over again with a new application to the Secretary of State. There was no proposed limit to the number of times the poor woman might apply.

Mr Powell was, perhaps forgivably, ignorant of how absurd his six-month time limit was, and of the need to fertilise more eggs than one in each IVF cycle in order to have the best chance of success. Moreover, he graciously allowed that doctors might use new and untried procedures as long as their intention was to enable a woman to have a baby ; and this of course entailed that while an embryo was to be protected from being used as a research object, the woman herself was allowed to be so used, as the subject of 'untried' treatment.

The Bill was thus nonsensical. What is of more interest, however, is the reason Mr Powell gave to support his proposed prohibition of embryo research. He said:

'The question may now be asked: why should a bill be brought forward to forbid the use of a human embryo from becoming the subject of experiment? If I may, I should like to answer that question in personal terms. When I first read the Warnock report (The Report of the Com-

mittee of Inquiry into Human Fertilization and Embryology 1984) I had a sense of revulsion and repugnance, deep and instinctive towards the proposition that a thing, however it may be defined of which the sole purpose or object is that it may be a human life, should be subjected to experiment to its destruction for the purpose of the acquisition of knowledge.'

Mr Powell went on to deny that he appeals to any abstract principle of when an embryo becomes a human being, stating that that is unanswerable, 'because it goes to the heart of the great unanswerable question, What is Man?' Nor did he rely on religious arguments, though he acknowledged that many of his supporters did so rely. He did not deny, either, that useful medical knowledge could be gained by research using human embryos. Instead he asked the House to make a choice and to 'decide that the moral, social and human cost of that information being obtained in a way that outrages the instincts of so many is too great a price to pay'. The basis of the argument was thus 'outrage of the instincts' of many people (the same basis, incidentally, as that used by Lord Justice Devlin in 1967 against the legalisation of homosexual practice between consenting men: the horror and disgust of the 'man on the Clapham Omnibus').

His argument was taken up by many MPs who simply appealed to the principle of the sanctity of life. However, Mr Campbell-Savours (later Lord Campbell-Savours), in supporting the Bill, and supporting it on grounds of the sanctity of life, nevertheless was alone in making the point that this was not a sufficient argument in a legislative context. He said:

'A Christian need do no more than pronounce his article of faith … For those of us who subscribe to such views, they may be sufficient justification for supporting the Bill. But I do not believe that that approach, without the intellectual base that requires deliberation and evaluation of its merits, is sufficient to convince the House. Therefore it is not a basis on which an hon. Member could make up his or her mind during the debate.'

He concluded that a reason for supporting the Bill, indeed a justification for any legislation at all on the issue, must be found that will 'convince the atheist'. And he ended by tentatively suggesting that such a reason might be that embryos used for research would feel pain. This would provide a respectable Utilitarian argument that would convince atheists to support the Powell Bill.

It is remarkable that neither Mr Campbell-Savours nor anyone else in this debate took seriously the recommendation of the Committee of Inquiry that there should be a 14-day limit on the length of time after it had come into being that the embryo might be kept alive in the laboratory, and used for research; it was, I suppose, simply assumed that such a limiting regulation would be immediately or gradually breached. In fact the time limitation became part of the law in 1990, with a penalty of ten years' imprisonment attached as a sanction, and as far as I know has not been breached. Of course if Mr Campbell-Savours had taken that suggested limitation seriously he would have known that his tentative argument that might convince the atheists would have no force, admirable though I believe it was to see the necessity of such an argument. For before 14 days from fertilisation, the cells of the embryo are not differentiated, and it has not even the beginnings of a central nervous system, so its feeling anything at all, pain or pleasure, is out of the question. But perhaps most people did not notice the 14-day limit proposed by the report because it was a limit irrelevant to those like Enoch Powell himself who held that the life of any human embryo at whatever stage of development was sacred.

Fortunately, though Enoch Powell's Bill was voted a Second Reading by a large majority, it did not proceed, and the Government showed no inclination to encourage it. And so we move on to 1989/90, when the Human Fertilisation and Embryology Bill was passed and became law.

From the evidence, both written and oral, that it received, as well as from its own internal discussions, the Committee of

Inquiry that I chaired had realised that if it were to advise ministers that IVF should be permitted, it was essential to find a way to make continued research acceptable to Parliament and the public, and that this would be its most difficult task. Indeed, Enoch Powell's attempted Bill showed that this was true. There were some of those who gave evidence to the Committee who opposed the IVF procedure altogether. This was because it was vaguely thought to be unnatural, or a usurpation of God's role, or, more specifically, because the procedure involved masturbation which was held by the Roman Catholic Church to be a sin, even if its purpose was to produce life. However, most of those who were hostile to or suspicious of IVF held, like Enoch Powell, that the procedure was not intrinsically wrong, as long as it did not involve either the immediate destruction of embryos that were not wanted for implantation ('surplus embryos') or research using live embryos and their subsequent destruction. I have already explained that this was not a tenable or realistic position, and the Committee had to find a way to undermine it. We addressed the question in chapter 11 of the report. We argued there that the question 'when does human life begin?', upon the answer to which was supposed to turn the answer to the further question of whether research, and the deliberate destruction of embryos, should be permitted, was not, as it appeared, a question of fact, but a question of value. It was a question that could be decided by Parliament, not, as some suggested, by further scientific research. (Some people even proposed that there should be a moratorium on all research until such time as scientists had discovered when human life began.) But, as Lord Soper had suggested in a different context, this was a case where, in the jargon of 1950s philosophy, the wrong question was being asked. Paragraph 11.9 of the report reads: 'we have considered what status ought to be accorded to the human embryo, and the answer we give must necessarily be in terms of ethical or moral principles.' I did not realise at the

time how closely these words echoed those of Lord Soper, quoted above at pp. 20–21. He too had argued that to raise the question when human life began was to raise a question irrelevant to the moral issue; what needed to be decided was what values we should uphold, in permitting abortion and, in our case, permitting research using human embryos.

The hidden premise in the argument of those who held that, if human life begins at conception, then any research using human embryos must be forbidden is of course that human life at all stages of development is 'sacred'. But an inconsistency in this argument is that human ova and human sperm are also human and alive, yet no one suggests that these should be mourned when they go to waste. They are not regarded as 'sacred'. So it is not really human life that is held sacred, but a potential new human individual. Yet there is no such potentiality for an embryo that never implants in the wall of a woman's uterus. What an embryo that is used for research is denied is not development into a human person, but the chance of such development. It seems that the argument is one of justice. Why should one embryo be denied a chance to develop and another granted that chance? However, it may be questioned whether an embryo consisting of two, four or eight cells is the kind of entity to which the concept of just treatment applies. Can embryos be the bearers of rights? Common sense suggests not; but this was not an argument where common sense had much part to play.

In the debate about research, the real difficulty was that, as I have said, Parliament was faced with a new phenomenon, a human embryo alive outside a woman's body. This was in effect a new entity, and the question was how it must be regarded. As I wrote later, looking back on the debates, we tried in our report to stress the point that our question must be this: 'How we, as civilized people, ought to regard the very earliest human embryos, now for the very first time existing independently of their mothers in

the laboratory, instead of in the female fallopian tube.' At what point in the development of an individual human life does it become so valuable that it should not be sacrificed, even for the sake of the good that might come from the research that would lead to its destruction? Everyone agreed that no child who had been born should be so sacrificed, but there agreement ended.

It must be remembered that even in the 1980s, most people, unless they were biological scientists, were profoundly ignorant of the facts of embryonic development. The pro-life lobby, as hostile to research using human embryos as they were to abortion, took as their logo an image of a human foetus, curled up in the womb. The name of Enoch Powell's Bill, The Unborn Child (Protection) Bill was misleading. The Duke of Norfolk, who, as senior Roman Catholic in the House of Lords, felt he must acquaint himself with the facts about IVF, to his great credit went to visit Robert Winston's fertility clinic in the Hammersmith Hospital, and I remember his accosting me in the corridor of the House, and taking me into the dining room for a cup of tea (carefully guiding me to the table under the picture of his Roman Catholic ancestor being first admitted to Parliament), and there, and on many subsequent days, he explained how he had changed his mind about embryo research. He had thought an embryo was visibly a baby. He had learned from Robert Winston, with the help of a microscope, that in the days after conception the embryo was invisible to the naked eye; and he had learned how the cells multiply and differentiate into different kinds of cells until on about the fifteenth day a cluster of cells begins to appear in the centre of the group of cells, the Primitive Streak, which will now quite quickly develop into the spinal cord, and the central nervous system. He had become, in fact, like Lord Soper, a developmentalist. He could accept what the Committee of Inquiry had had to learn, most of them, for the first time: that up to 14 days from fertilisation, any cell may become any part of the body,

or not any part of the body, but part of the umbilical cord or the after-birth; and that up to that time two embryos may split off from each other as identical twins, with two spinal cords. He was prepared, that is, to accept what we had recommended: that up to 14 days from fertilisation embryos need not, indeed could not, be treated as individual complete human persons, but might be regarded as clusters of human cells, and, as such, used for research. It was a steep conceptual learning curve for him, as it had been for the non-scientific members of the Committee, he having been taught by the great human embryologist, Lord Winston, we by the equally great mammalian physiologist, Professor Anne McLaren, a member of the committee and a brilliant teacher.

Sadly, it must be recorded that the Duke's conversion was short-lived. Our conversations took place in 1986, soon after I joined the House of Lords and two years after the publication of the Committee's report. In March 1987 The Congregation of the Doctrine of the Faith of the Catholic Church published its *Instruction on Respect for Human Life in its Origin and on the Dignity of Human Procreation: Replies to Certain Questions of the Day*. The questions were those concerned with research using human embryos; and the Instruction, though no claim was made to solve the ancient puzzle of the time of ensoulment, nevertheless laid down that

'the Church accepts that the genetic or biological identity of a new human individual begins at fertilization when a zygote (a two-cell embryo) is formed and takes it for granted that this suffices for the presence of a human being … On the basis of an ordinary human understanding of these facts the Church adopts the position of prudential certitude in relation to the presence of individual and personal life once the process of fertilization results in the constitution of a zygote through the union of human egg and sperm.'

Thus the Church again, as it had in 1869, distinguished theoretical or theological questions about ensoulment from an 'ordinary

human understanding of the facts'; and though it recognised that an embryo and a foetus and a child were developmentally different, as far as being used for research purposes went, all were equal, with the same ethical status. The Duke and I had our last tea together the day after this Instruction was published, and he said with considerable melancholy that he, a mere soldier, did not know what to think, but knew that he would have to speak up against the Bill to legitimise research, whenever it should come before the House. This it did, at last, in December 1989.

The Bill, starting in the House of Lords, was carried through with extraordinary skill and impeccable impartiality by the then Lord Chancellor, Lord Mackay of Clashfern. The delay between the publication of the report in July 1984 and the introduction of the Bill turned out to be a great advantage. Because of the work of such experts as Robert Winston and Anne McLaren, ignorance began to be dispelled among the general public; and meanwhile more successful pregnancies resulted from IVF, regulated by an Interim Human Fertility and Embryology Authority, which was modelled on the regulative body that the Committee's report had recommended as its first priority. The Interim Authority was a voluntary organisation, consisting of gynaecologists and others, giving up their time, and finding the workload increasingly burdensome. They were therefore strongly urging the Government to get on with the work of drafting a Bill.

The Bill, when it came, had a unique form. On the crucial issue of research, on which the Roman Catholics (including, of course, the good Duke of Norfolk) and others who were 'pro-life' were implacably hostile, there were two alternative clauses on which members of the House of Lords had to vote. One clause prohibited all research using human embryos, the other permitted it for up to14 days from fertilisation, as the Report of the Committee of Inquiry had recommended. This meant that argument could focus on this clause when it came to be debated, and peers could

give a clear yes or no answer about the future of research (and thus in effect the future of IVF in this country), leaving the other clauses, concerned with the regulation of IVF and other forms of infertility treatment, to be debated separately. To me – sitting nervously silent, since I felt I had already had my say in the report, and could add nothing to that – there seemed to be two crucial speeches that carried the Bill through, to be sent on to the Commons. The first was the intervention of Lord Walton of Detchant, a recently retired neurosurgeon, and new to the House, who spoke with passion on the value of embryonic research for finding remedies for such diseases as Duchenne's Muscular Dystrophy, his own speciality. He spoke not only as a doctor, but as a Lay Reader in the Methodist Church.

The other was the intervention of the then Archbishop of York, John Habgood, once an academic biologist, who spoke for the gradualism of biological scientists, whether they were concerned with the evolution of species or the development of an individual embryo. He said, 'It seems strange to a biologist that all the weight of moral argument should be placed on one definable moment at the beginning', and he ended his speech with the words: 'Christians are no more required to believe that humanness is created in an instant than we are required to believe in the historical existence of Adam and Eve' (Later in the debate an aged peer who was sitting next to me whispered, 'no Christian could have anything to do with this stuff', and I ventured to ask 'what about the Archbishop of York?', to which he replied 'HE'S not a Christian.' No doubt any fundamentalist Christians who heard or read his speech were equally dismissive.)

At any rate, as far as the House of Lords was concerned the Bill was sent on to the Commons with a substantial majority, including the clause permitting research using human embryos, up to 14 days from fertilisation. There was then a time of anxiety, because anti-abortion MPs, thinking they saw a chance to amend the 1967

Abortion Act, added an amendment to the Bill, limiting the lawful availability of abortion. But when this came back again to the House of Lords, the amendment was not allowed. It was irrelevant to the Fertilisation Bill, and, because of time constraints, it threatened the whole Bill, which by now the Government was under considerable pressure to place on the statute book. So in the end, and, I felt, almost miraculously, IVF became lawful, subject to the 14-day restriction on research, and to other regulatory constraints to be finalised by the new Human Fertilisation and Embryology Authority. Since 1990 there have been various fairly minor changes to the Act, but the powers of the Human Fertilisation and Embryology Authority remain in place, as does the crucial 14-day limit on keeping an embryo alive in the laboratory.

The next serious challenge to the sanctity of life came following the birth of the cloned sheep, Dolly, in the Roslin Research Institute, near Edinburgh, in 1997. The nucleus of an egg cell, containing almost all the DNA of the sheep whose egg it was, was taken out and replaced by the nucleus of a mammalian cell from another adult sheep. An electric current was passed through the egg with its new nucleus, which caused it to fuse and develop into an embryo. This embryo was then placed in the uterus of a third sheep, a surrogate mother. Out of 270 experimental pregnancies, only one lamb, Dolly, survived. She was somewhat overweight, and suffered increasingly from arthritis in her legs, but lived to the age of six, approximately middle age for a sheep. Her birth was greeted with extreme alarm.

There were three separate causes for anxiety. The first was that, though research on the cloning of animals had been going on for more than 40 years, it had previously been conducted using amphibians, it being far easier to use animals whose eggs were outside the body. Now that a mammal had been successfully cloned, it was feared that there could eventually be human clones, a thought that aroused intense horror. This would indeed

be the beginning of a Brave New World, Aldous Huxley- rather than Shakespeare-style, with armies of worker-clones being produced, to carry out the dirty work uncomplainingly, and ruler-clones to conquer the world. Or successful and vain people would want clones of themselves, so that the future world might benefit from their talents. Others warned that human clones would be deprived of personal identity, and would not be real individual people at all.

The second source of alarm was that mammalian cloning did not require both sperm and egg, but egg alone; so there was no need for male participation in the process. The resulting child would be literally fatherless, not having been brought into existence by conception in the normal way. This seemed to many the most disastrously unnatural of all those phenomena brought about or made possible by new technology.

Third, those who had always been opposed to research using human embryos that resulted in the destruction of the embryo, even when such research increased the chances of successful fertility treatment, raised their fundamental objection again in the new context, pointing especially to the numbers of embryos destroyed in the production of just one viable offspring.

Scientists vainly argued that they were not interested in producing human clones analogous to Dolly the sheep (reproductive cloning). Instead they wanted to pursue the goal of asexual production of human embryos with a view to extracting stem cells from them, which could be differentiated into different kinds of human cells, and perhaps used in the future to renew damaged cells in living subjects. They fully accepted that any research they carried out would be subject to the provision of the Human Fertilisation and Embryology Act (1990) according to which no embryo might be kept alive in the laboratory for more than 14 days, and no embryo used for research might be placed in a woman's uterus. Moreover, the 1990 Act expressly prohibited

human cloning, even though, at the time, it was not believed to be possible. It seemed that the Act absolutely prohibited reproductive cloning.

The point of stem cell research was nothing to do with producing new babies. For stem cell scientists, the purpose of the new technology was twofold. First, they wanted to learn more about the early development of the human embryo and the differentiation of cells. Second, as I have said, they would be able to create embryos by cell nuclear transfer, and extract stem cells from them. Embryonic stem cells are totipotent; that is, they have the capacity to develop into any one of the approximately two hundred types of cells that make up the human body. They could thus be induced to develop into, for example, blood or muscle or spinal cord cells, and banks of such cells could be set up, the cells reproducing themselves everlastingly. They could then be used for transplant in cases of severe injury, say to the spinal cord, or of degeneration of an organ due to disease. Once transplanted, they would colonise, reproduce themselves and take over from the damaged cells they were used to replace.

Techniques for inducing adult stem cells to revert to the stage of totipotency ('turning the clock back') are also being developed, and these too will lead to more understanding of how differentiation actually occurs, and how cells may be guided into different channels of differentiation. The great advantage of techniques using adult cells would be, first, that no embryos need be used, whether the outcome of *in vitro* fertilisation or cell nuclear replacement; and second, that a patient could use a cell from his or her own body, to be transformed into the replacement cell that the injury or disease demanded, so there would be no danger of rejection. The use of cell transplant for the overcoming of disease or injury, known as therapeutic cloning, is widely seen as one of the most exciting future advances in medicine. (For example, it is thought that within a few years a patient's

own cells, taken from hair or skin, may be transplanted into the eye to overcome an extremely common disease, Age-Related Macular Degeneration, a development that would transform the life of many elderly people.)

With a view to developing this kind of therapy, early in 2001 Parliament introduced regulations that permitted the use of embryos for research the purpose of which was not confined to the remedying of infertility, as had been laid down in the 1990 Act. However, later in the same year, a member of the pro-life group, convinced that once the production of embryos by cell nuclear replacement had been allowed human reproductive cloning would follow, demanded a judgment from the High Court as to whether the Human Fertilisation and Embryology Act (1990) did actually make human reproductive cloning unlawful. In a surprising judgment, Lord Justice Crane decided that it did not. In the relevant part of the Act, where the insertion of a cloned embryo into a woman's uterus is prohibited, it refers to 'live embryos, where fertilization is complete'; but, he ruled, this cannot be taken to cover embryos that have been produced by nuclear transfer, since they have never undergone fertilisation. In fact, he judged, they were not embryos at all (though he later withdrew this eccentric part of the judgment). Therefore it looked as if cloning a human being the way Dolly had been cloned would after all be lawful under the 1990 Act.

Parliament was thrown into panic. At once, an Italian doctor called Professor Antonori, already notorious for providing IVF treatment for post-menopausal women, promised to come over to England, where, he said, he had 200 women willing to act as surrogate mothers, and there would be a cloned baby within a year. In an almost unconstitutionally short time an Act reached the statute book the sole clause of which was the prohibiting of Human Cloning. It was a minor triumph for the religious and pro-life lobby. And it could be argued that, even if hastily intro-

duced, it did no harm, though personally I can think of cases, say of a man's total inability to produce sperm, where cloning might be a solution to a couple's infertility. But then, I do not share the widespread horror of clones that many people express (though they do not seem to mind identical twins, who in fact have entirely the same DNA, while clones would share only about 90 per cent, some small amount being contained in the membrane surrounding the denucleated donor egg).

Many other animals have been cloned since Dolly, some having been genetically manipulated at the stage when the nucleus of an egg has been transferred to a denucleated egg, in order to produce animals whose cells, or even organs, might be used for human transplant; and human embryonic stem cell research is now permitted by law in the UK. Though some Roman Catholics, especially Lord Alton of Liverpool, repeatedly urge that adult stem cells or stem cells from the umbilical cord should be used instead of embryonic stem cells, the most they have gained is the concession that research should continue using all types of stem cell, including embryonic (the other types are difficult to acquire, and not so versatile, since they can differentiate into only a few types of cell). Lord Alton's argument is based on the respect owed to human life in the embryo, regardless of how that embryo comes into existence; and he cites the numbers of embryos destroyed in research programmes to back up his argument. But there is a sense in which, if to destroy an early embryo is wrong, then to destroy even one is wrong. It is not necessarily a hundred times more wrong to destroy a hundred, at least so it seems to me. But this is to suppose a crucial difference between embryos and people (which Lord Alton does not allow). For it seems *prima facie* true that it is a hundred times worse to kill a hundred people than one (though even this must depend on the motive and circumstances).

In any case, behind all the opposition to embryonic stem cell research there lies something other than the mere calculation of

numbers of embryos destroyed. It is doubtful whether many people, despite the instructions from the Vatican, really believe in their heart that the death of a two- or four-cell zygote is comparable to the death of a child who has been born. They need only reflect on the extraordinary luck that is required for such an embryo, conceived in the natural way, to implant in the uterus and become a baby, the huge wastage of embryos that Nature permits, to doubt whether there is really any comparison. Would God allow so many souls to be lost? I believe that their opposition is based rather on a general sense that producing human embryos by a means other than human fertilisation is unnatural and therefore wrong. Many people had felt the same about IVF, at the beginning, but at least in that procedure spermatozoon and egg are brought together to fuse, albeit outside the body. It was the possibility of asexual reproduction in the years following the birth of Dolly the sheep that seemed so wholly contrary to nature.

David Hume, when looking for the 'general principles upon which our notion of morals might be founded', raised the question whether they were derived from Nature. In that case something unnatural would be morally wrong. But he went on to say that, to assert this connection, we would need to know how 'Nature' is to be understood, 'than which', he said, 'there is no word more ambiguous and equivocal'. It is difficult to find a definition of the Natural that does not already contain an evaluative element, entailing that the unnatural is worse than the natural. We tend, like Rousseau, to believe that the natural is good, and that nothing but corruption comes from man-made changes, producing thereby the artificial. To do what is contrary to Nature is *wrongfully* to intervene in the natural order of things. Thus people who think that some surgical operations, such as giving someone a pacemaker, are good, while others, such as breast enhancement, are bad, are liable to describe the latter but not

the former as unnatural. And there are many agricultural and horticultural interventions where the use of 'unnatural' is equally selective.

The idea of Nature's Order is closely linked with the idea of what God has ordained. And in some respects the development of science, and the Darwinian idea of biological gradualism, seems hardly to have touched the taken-for-granted view of popular, as opposed to scientific, culture. Thus, when pigs were first cloned and the piglets genetically modified so that their organs might be used in human transplant, there was widespread outrage. This was to cross the species boundary, creating hybrid monsters. One could say that it was contrary to God's creation of separate species of animals, preserved in their pairs, according to Genesis 6–8, in Noah's Ark during the Great Flood. One could equally say that it fell foul of Nature's distinction between one species and another. Yet we know, since the discovery of DNA, how genetically similar animals are to each other, how large a proportion of our genes we share not only with the higher apes, but with the fruit-fly. Some animals are more intelligent than others, but we are not divided from any by the huge barriers, differences of kind, that used to be supposed. We swing between thinking that the laws of Nature cannot be breached to thinking that they ought not to be breached. No wonder Hume found the word 'Nature' equivocal.

And so it is that, once again, we come up against the difficulty of separating religious from non-religious beliefs. For example, in his Reith Lecture delivered in 2001 the Prince of Wales, speaking against the genetic modification of crops, said: 'It is because of our inability or refusal to accept the existence of a Guiding Hand that nature has come to be regarded as a system that can be engineered for our own convenience and in which anything that happens can be fixed by technology and human ingenuity.' It is easy to slip into the language of theology when considering what we regard as undue human interventions in the natural course of

events: the Guiding Hand may be the hand of God or of Nature herself. '*Deus sive Natura*' in the atheist Spinoza's words; either may seem equally sacrosanct. Many people feel that asexual reproduction, for purposes of therapeutic cloning, however great its potential benefits, is something simply too far removed from what God or Nature have laid down to be tolerable, and this is the deep source of their unease.