

newly discovered evidence of innocence brought forward after conviction. In saying that such a right exists, the dissenters apply nothing but their personal opinions to invalidate rules of more than two-thirds of the States, and a Federal Rule of Criminal Procedure for which this Court itself is responsible. If the system that has been in place for 200 years (and remains widely approved) 'shocks' the dissenters' consciences (citing dissenters' opinion), perhaps they should doubt the calibration of their consciences, or, better still, the usefulness of 'conscience-shocking' as a legal test."

Why Justices Scalia and Thomas concurred with Rehnquist's opinion, despite its arguendo assumption that innocence would bar execution: "[I] can understand, or at least am accustomed to, the reluctance of the present Court to admit publicly that Our Perfect Constitution lets stand any injustice, much less the execution of an innocent man. . . . With any luck, we shall avoid ever having to face this embarrassing question again, since it is improbable that evidence of innocence as convincing as today's opinion requires would fail to produce an executive pardon."

Justice Harry Blackmun's dissent, alone: "I have voiced disappointment over this Court's obvious eagerness to do away with any restriction on the States' power to execute whomever and however they please (citing case of Roger Coleman of Virginia, 1991). I have also expressed doubts about whether, in the absence of such restrictions, capital punishment remains constitutional at all. . . . Of one thing, however, I am certain. Just as an execution without adequate safeguards [the reason capital punishment was temporarily declared unconstitutional in 1972—ed.] is unacceptable, so too is an execution when the condemned prisoner can prove that he is innocent. The execution of a person who can show that he is innocent comes perilously close to simple murder."

Justices Blackmun, Stevens, and Souter, on the Eighth Amendment, which prohibits "cruel and unusual" punishment: "The protection of the Eighth Amendment does not end once a defendant has been validly convicted and sentenced. . . . [C]apital defendants may be entitled to further proceedings because of an intervening development even though they have been validly convicted and sentenced to death. . . . [Texas] and the United States would impose a clear line between guilt and punishment. . . . [S]uch a division is far too facile. What [Texas] and the United States fail to recognize is that the legitimacy of punishment is inextricably intertwined with guilt."

Justices Blackmun, Stevens, and Souter, on executive clemency: "'The government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right.' (*Marbury v. Madison* [1803]). If the exercise of a legal right turns on 'an act of grace' [the majority's definition of clemency—ed.] then we no longer live under a government of laws."

Clinton expands death penalty for unborn

by Warren A.J. Hamerman

In his first act in office, on the 20th anniversary of the Supreme Court's anti-life ruling, President Bill Clinton kept one campaign promise: With the stroke of a pen he ordered one of the most sweeping packages of pro-abortion measures in history.

One year ago, then-Governor Clinton, as *EIR* readers will recall, rushed home from campaigning in New Hampshire in order to oversee the execution of a lobotomized prisoner in Arkansas. He has now begun his presidency by extending the application of the death penalty to the unborn.

The day after Clinton's actions, the Vatican responded in an unprecedentedly swift and sharp statement to a new President's first actions. An editorial in the Vatican newspaper *L'Osservatore Romano* on Jan. 23 commented: "Believing that he is keeping faith with electoral promises, President Bill Clinton has already changed the rules of his predecessors. . . . that favored the right to life of the unborn child. Those who were hoping that Clinton's first acts would promote a 'renewal' involving first of all the protection of human rights have had a big disappointment. With the recent measures, the declared 'renewal' has embarked on the paths of death and violence against innocent beings. This is not progress for the United States, nor for humanity, which, once again, is forced to accept the humiliating defeat of life. 'Spring' is not synonymous with death," the editorial concludes, noting that Clinton had used the metaphor of spring as a time of renewal in his Inaugural Address.

What did Clinton do to merit this response? On Jan. 22, he signed several executive orders that would further liberalize abortion. Clinton overturned:

1) The 1988 ban on abortions performed in military hospitals, "if paid for entirely" with non-Department of Defense funds.

2) The 1984 ban on using Agency for International Development (AID) funds to finance organizations that promote abortion overseas.

3) The ban on fetal tissue experimentation. Tissue, glands, and organs are cut out or "scooped out" of live fetuses, sold and used as implants. It takes the glands of several fetuses for each brain implant for patients with Parkinson's disease. There are no studies indicating lasting positive results from such implants, although Clinton's order claims that research into major diseases has been "hampered" by the ban.

4) The so-called Gag Rule which prohibited federal dol-

lars from going to clinics in which physicians or other staff provided “nondirective counseling” to patients about abortion. This affected *only* clinics receiving tax dollars. To Planned Parenthood’s 923 clinics nationwide and other facilities, the term “counselor” means any staff member available. In the past, the clinics have used teenage “counselors” to sell abortion to pregnant teens and boast of their own repeated abortions.

In a fifth memorandum, directed to the secretary of health and human services, Clinton asked that the Food and Drug Administration promptly be instructed to review the ban on importing RU-486, the abortion pill, for personal use, and assess initiatives to promote its “testing, licensing, and manufacturing in the United States.” The abortion lobby has said it wants to use RU-486 as the once-a-month pill in schools. Despite publicity about its being cheaper than surgical abortion, and allowing a woman to have an abortion in the “privacy of her home,” the fact is, the French Health Ministry warns the procedure must be done in a hospital or clinic prepared for interventions. Feminists are themselves critical of the chemical abortion’s health hazards.

Malthusians pleased

In contrast to the response of the Vatican, U.N. officials see the U.S. as resuming its international leadership in cutting back Third World populations. Nafis Sadik, executive director of the United Nations Population Fund, told the *New York Times* that Clinton’s repeal of the ban on aid to international family-planning programs involving abortion, was a major step toward Washington’s re-joining the U.N. program. As a result of this decision, she said, it will “probably mean that the United Nations would receive money to expand the number of clinics in Nigeria, Ghana, and a half-dozen other African countries.”

What Clinton has wiped out is the 1984 “Mexico City Policy” of President Ronald Reagan. This had expanded on a limitation in AID funding which is written into law as the Foreign Assistance Act of 1961. The law bans non-governmental organizations that receive U.S. funds from using those funds “to pay for the performance of abortions as a method of family planning, or to motivate or coerce any person to practice abortions.” Before 1984, organizations like Planned Parenthood could benefit from U.S. government largesse for their overseas population control programs as long as they could show that they had “other” funds to bankroll their abortion activities. While the Reagan-Bush “pro-life” curbs were largely hypocritical, especially under the convinced malthusian Bush, and all too easy to circumvent, Clinton is signaling moves toward massive increases in funding for radical population-control measures against the world’s poor.

“Moreover,” he continues, in a sentence that suggests new legislation may be on the way to reverse even the toothless anti-abortion protections of the 1961 law, “they have undermined efforts to promote safe and efficacious family

planning programs in foreign nations.”

Clinton’s memorandum on the Gag Rule says that it “endangers women’s lives and health . . . and interferes with the doctor-patient relationship by prohibiting information that medical professionals are otherwise ethically and legally required to provide to their patients.” This amounts to an endorsement of the queer view of the late Margaret Sanger and other eugenics fanatics, that pregnancy is a disease—especially, of course, when it occurs to poor women.

Civil rights and right to life

The *New York Times*, long an apologist for the U.N.’s depopulation programs, had a concerned comment on the meaning of the Vatican editorial rebuking Clinton’s actions. The quick response, they wrote, may mean that Pope John Paul II is preparing for a direct challenge to Clinton.

On the eve of Clinton’s inauguration, Cardinal John O’Connor, the former head of the National Conference of Catholic Bishops Life Committee, articulated a major policy stand for the Catholic Church on the occasion of a Life Mass at St. Patrick’s Cathedral in New York. O’Connor, in effect, called for an alliance of the civil rights and pro-life movements as he compared the way in which the *Dred Scott* decision of 1854 denied that slaves were persons just as the 1973 *Roe v. Wade* decision denied that the unborn were persons under the law. O’Connor said that two great Americans—Abraham Lincoln and Martin Luther King—were martyred for their devotion to the principles of Christian love and the sacredness of life, and they would have opposed the growing death culture in America today. Other Catholic spokesmen have said that since the Vatican was criticized for not having spoken out enough against the Nazis, it cannot make the mistake of failing to attack the death lobby today.

Documentation

‘Dr. King, and the cause of life, will prevail’

What follows are excerpts from the homily of Cardinal John O’Connor, archbishop of New York, on Jan. 17, St. Patrick’s Cathedral in New York, commemorating the 20th anniversary of Roe v. Wade:

It seems to me appropriate that during this Mass, before all else, we should remind ourselves that within a handful of hours we will have a new President and vice president of the United States. Regardless of whatever differences anyone here may have with the philosophical, political, ideological, moral, spiritual, or religious convictions of our new President

and vice president, it is surely incumbent upon us, as citizens who love our land, as Christians who love all, to commit ourselves to prayer, to ask that our President and vice president be inspired with the Holy Spirit to govern wisely, justly, compassionately. It is incumbent on us, as well, to pray in a special way that the cause of human life will be enhanced during the years ahead, that everyone will be treated with dignity, and the sacredness of every human person will be recognized in law and in fact, whether that human person is still in the womb of its mother, is dying of cancer, is in a wheelchair, is retarded, blind, or crippled. We will pray consistently in the years ahead that every human person will be recognized as made in the image and likeness of Almighty God and supported by the government, which, as Thomas Jefferson never tired of reminding us, exists *only* for the defense of the people.

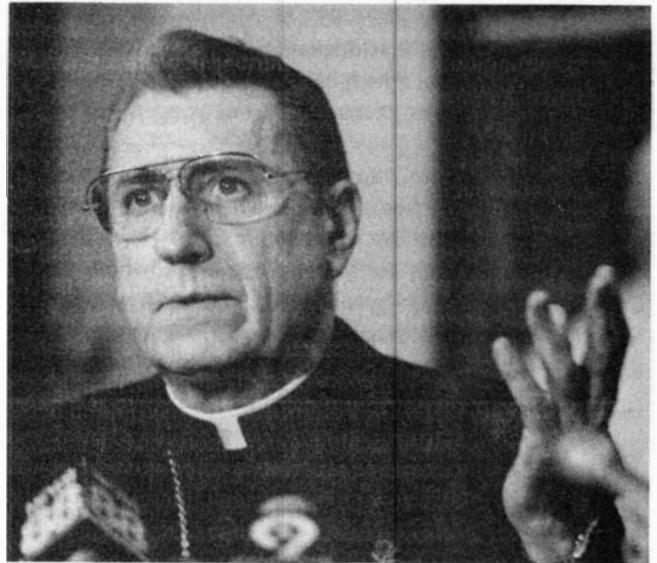
Today's gospel once again focuses on John the Baptist. . . . Probably that which is best known about John the Baptist is that when Herod Antipas, who was the son of Herod the Great who slaughtered the Innocents in an effort to put the Christ Child to death, took as his wife his own sister-in-law, and lived with her incestuously, John the Baptist, totally unafraid, singled out Herod, a man of immense power, and said it was not lawful for him to do this. To John the Baptist that was basic. He didn't care what happened to him. It was his responsibility to articulate the truth, to distinguish between good and evil and to preach what he believed he had been sent to preach.

On the contrary, Herod was terrified to be so singled out. He saw John the Baptist as a major political threat. . . . Herod was . . . concerned that there would be a revolution, an insurrection and he would be overthrown. This is why Herod cast John the Baptist into prison and this is why, on the pretext of having made a promise to his unlawful wife, he had John beheaded.

It is particularly appropriate, I think, for us to reflect on this on a day when we, in a very special way, remind ourselves of the sadness ushered into our society by that tragic decision of the 22nd of January, 1973 that we refer to, often casually, as the *Roe v. Wade* decision of the Supreme Court.

There is another reason for reflecting on the difference between those who are fearful and those who are fearless. Tomorrow we officially celebrate the birthday of the Rev. Dr. Martin Luther King, Jr., who was born on the 15th of January and assassinated on the 4th of April. In thinking about the increasing meaning of Dr. King to American life, in reading more and more of his life, of his sayings, of his philosophy, of his theology, in coming to have a deeper and deeper admiration for what this man really was, I re-read some things with which I have been familiar for some time. The first of these was Jim Bishop's book *The Day Lincoln Was Shot*. . . .

Abraham Lincoln was killed out of fear that he was going to revolutionize this country in ways that many detested. He was killed out of fear, and then in turn there was great fear,



Cardinal John O'Connor: "We will pray consistently in the years ahead that every human person will be recognized as made in the image and likeness of Almighty God. . . ."

legitimate fear, understandable fear, on the part of blacks in the United States, that now they would be hunted down. . . . James Farmer, the founder of the Congress of Racial Equality . . . talks vividly about what happened on the day that the Rev. Dr. Martin Luther King, Jr. was shot and how he and many others were instantly rushed to cover. Fear swept the land and, as a result, violence. Within days 43 people were killed subsequent to the death of the Rev. Dr. Martin Luther King. Violence always begets fear and fear always begets violence. . . .

This is a terrible equation and it is particularly terrible when we recognize that those places which were once so free from fear have now lost their security. I've told various groups of people, for example, about one of our finest hospitals. It is a Catholic hospital that takes care of those who are terminally ill with cancer. . . . How would you feel if you or a loved one were en route to that facility and learned what its medical director recently told me—that the major insurance carrier for this terminal cancer facility has told him, "You're keeping people alive too long. If you continue doing this, you will lose your insurance and you won't be able to get it anywhere else."

What security one used to have in a hospital! One went to a hospital to be treated with gentleness, to be treated as a patient, one suffering, to be treated with love, to be cured if a cure was possible, to be maintained in dignity if cure was not possible. Now must we fear the potential of legislation for euthanasia or assisted-suicide?

. . . Why this haste on the part of the media, or anyone else, to introduce and then to hammer on this concept of the right-to-die? Why, in state after state, is legislation being introduced that would bring about assisted-suicide? Why is such a prestigious journal as the *New England Journal of*

Medicine suggesting that doctors take a new look at their responsibilities, from which one could infer that doctors are supposed to act not as agents of life but as agents of death? Why all of this?

Mother Teresa and others would tell us that much of this began on the 22nd of January, 1973 when the Supreme Court rendered vulnerable those who had previously been in, what . . . we thought, was the safest place in the whole world, even safer than in the hospital—the mother's womb. The Supreme Court decided that they were no longer safe because they weren't people. They were tissues; they were blobs;

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they were unidentifiable, undefinable. How can that be? That for all of those years in our country we accepted the reality that the unborn has the right to life and then suddenly by a stroke of the pen they are declared "non-persons," as by the *Dred Scott* decision blacks were declared non-persons. That's the watershed. That's when death began to assault our land. That's when we began to develop a contempt for human life. That's when we began to develop an ethic of death, rather than of life. Why? Out of fear. . . .

I have never in my life, nor will I ever, denounce, condemn, or even criticize a woman who has permitted her unborn baby to be put to death, because I know how many women are motivated by fear. . . . This is why I announced . . . in 1984 . . . and I will keep saying it: Any woman, of any color, of any age, of any religion who is pregnant and in need can come to the Archdiocese of New York, can come to me personally. . . . We will take care of her. We will help her to keep her baby if she wishes to keep the baby. We will help her to have the baby adopted if that's what she wishes. We will provide medical and hospital care. We will give her the support and encouragement she needs to take away her fear.

. . . Fear leads to violence—the death of an unborn baby. This is why we offer the facilities we offer. . . .

. . . Last year, on this same day, I said that in my judgment, and it's only my judgment, had abortion been legalized in his day the Rev. Dr. Martin Luther King, Jr., would have taken the same attitude toward it that he took toward the taking of any human life. I was severely criticized within the next few days for putting words into Dr. King's mouth,

which I didn't do. But the part that seems to me shocking is that it should be considered an insult to suggest that the best known civil rights leader that we have had in the United States, and in my judgment one of the most admirable, had he been familiar with the problem of abortion as we are today and the growing problems of euthanasia and assisted-suicide, would have come down on the side of life! I think that's a *compliment*. . . . I think one needs only turn to things that the Rev. Dr. King had to say, and some may argue that I'm taking him out of context, but I don't know that there is a sacred Biblical interpretation of Dr. King's mind. . . .

Dr. King says, for example, "Racism is a philosophy based on a contempt for life." He says, and to me this is a marvelous quotation, "I am convinced that if we succumb to the temptation to use violence in our struggle for freedom, unborn generations will be the recipients of a long and desolate night of bitterness and our chief legacy to them will be a never-ending reign of chaos."

Many women struggle to be free. That's a perfectly legitimate struggle. They fear being restricted. They fear being oppressed, and with good reason. But if we succumb to the temptation to use violence in our struggle for freedom, the violence of putting to death an infant that seemed to be restricting or oppressing or burdening us, then all we're going to do is to introduce chaos for our children and for the generations yet unborn.

I believe what Dr. Martin Luther King, Jr. preached so powerfully and with no fear. The night before he was killed he gave a remarkable address, in which, apparently, he had a premonition of his death. He openly said, "I'm not afraid of what's going to happen to me. I've been on a top of the mountain and I've looked across into paradise." I don't think there's any question but that the day will come that Dr. Martin Luther King's dream will come true—that every human person will be treated precisely as that, nothing more, nothing else; not as a black, not as a white, not as a brown, not as a yellow, not as a Jew, not as a Protestant, not as a Catholic, not as a Hottentot, but as a human person. I believe that that will happen because when people like the Rev. Dr. Martin Luther King lay down their lives for a cause, God doesn't abandon that cause. I believe with equal fervor that the cause of human life itself will prevail, that the Catholic Church's teaching will be vindicated, that all of those who have joined in the struggle to preserve, to protect human life, to enhance human life, to remind us all of the worth and dignity and the sacredness of every human life—that they will prevail, that they will overcome, as Dr. Martin Luther King, Jr. will one day overcome despite the assassin's bullet.

I am very deeply grateful to all of you who are committed to the cause of human life. This, to me, is to be committed to the cause of citizenship, to the cause of the goodness of our land, to the cause of the very creation of what we call America, and surely it is to be committed to the cause of driving fear from the human heart.