

those situations wherein, voluntarily or involuntarily, the preliminaries have ended, and a new life has begun. Once human life has commenced, the constitutional **\*747** protections found in the Fifth and Fourteenth Amendments impose upon the state the duty of safeguarding it.

Obviously, of course, there are limits to the protection which the state can and must extend to human life, but these are clear and well-marked in the law, and have been for centuries, essentially on the basis that "self-preservation is the first law of nature". Thus throughout the development of our law, self-defense has always been recognized as a justification for homicide. Hence the provision in the statute here in question that abortion is noncriminal when it is necessary, or declared by two physicians to be necessary, to preserve the life of the mother. One human life may legally be terminated when doing so is necessary to preserve or protect another or others.

There is authority for the proposition that human life commences at the moment of conception.

Biologically speaking, the life of a human being begins at the moment of conception in the mother's womb. 42 Am.Jur.2d, Infants § 2 at p. 9 (1968).

From the viewpoint of the civil law and the law of property, a child *en ventre sa mere* is not only regarded as human being, but as such from the moment of conception \* \* \* which it is in fact. *Bonbrest v. Kotz*, 65 F. Supp. 138, 140 (D.D.C.1946).

medical authority has recognized long since that the child is in existence from the moment of conception \*  
\* W. Prosser, *The Law of Torts*, § 56 at 355 (3rd ed. 1964).

In this connection it should be noted that Ohio never did follow Mr. Justice Holmes's opinion in *Dietrich v. Inhabitants Northampton*, 138 Mass. 14, 52 Am.Rep. 242 (1884), which for more than half a century fouled up the tort law with respect to pre-natal injuries, but is now pretty well abandoned by all courts except those which, once having made a mistake, cannot admit it, but expect the legislature to rescue the public from the consequences of their error. The courts of Ohio have never hesitated to protect a child merely because it was unborn at the time of injury.

If the law is in accord with science for the purpose of protecting property rights, how can it possibly not be in accord with science for the purpose of protecting life itself, without which no property right has any worth or value whatsoever?