

Questions related to The Legal Status of Abortion Prior to Criminalization

1. In your own words, state the legal question that is under consideration in this 1849 opinion of the New Jersey Court of Errors and Appeals.
2. Although the timing can vary by several weeks, “quickening” typically occurs toward the end of the fourth or early in the fifth month of pregnancy. What does quickening refer to, and when does life begin as stipulated in the common law?
3. In the common law, was killing a fetus after quickening but before birth ever considered “murder”?
4. In the more modern common law (see Blackstone), what kind of a crime was killing a fetus after quickening but before birth?
5. In the common law, was killing an embryo/fetus before quickening a crime?
6. Did the common law view killing an embryo/fetus before quickening as a crime for which the perpetrator would be punished by God?
7. If society were to decide that aborting an un-quickened embryo/fetus should be made a crime, what remedy do the justices of the New Jersey court recommend?
8. What remedy do the justices think should be avoided?