dertook a lengthy historical review of medical and legal views regarding abortion, finding that modern prohibitions on abortion were of relatively recent vintage and thus lacked the historical foundation which might have preserved them from constitutional review.[566] Then, the Court established that the word "person" as used in the Due Process Clause and in other provisions of the Constitution did not include the unborn, and therefore the unborn lacked federal constitutional protection.[567] Finally, the Court summarily announced that the "Fourteenth Amendment's concept of personal liberty and restrictions upon state action" includes "a right of personal privacy, or a guarantee of certain areas or zones of privacy" [568] and that "[t]his right of privacy . . . is broad enough to encompass a woman's decision whether or not to terminate her pregnancy." [569]

It was also significant that the Court held this right of privacy to be "fundamental" and, drawing upon the strict standard of review found in equal protection litigation, held that the Due Process Clause required that any limits on this right be justified only by a "compelling state interest" and be narrowly drawn to express only the legitimate state interests at stake.[570] Assessing the possible interests of the states, the Court rejected justifications relating to the promotion of morality and the protection of women from the medical hazards of abortions as unsupported in the record and ill-served by the laws in question. Further, the state interest in protecting the life of the fetus was held to be limited by the lack of a social consensus with regard to the issue of when life begins. Two valid state interests were, however, recognized. "[T]he State does have an important and legitimate interest in preserving and protecting the health of the pregnant woman . . . [and] it has still *another* important and legitimate interest in protecting the potentiality of human life. These interests are separate and distinct. Each grows in substantiality as the woman approaches term and, at a point during pregnancy, each becomes 'compelling.'" [571]

Because medical data indicated that abortion prior to the end of the first trimester is relatively safe, the mortality rate being lower than the rates for normal childbirth, and because the fetus has no capability of meaningful life outside the mother's womb, the Court found that the state has no "compelling interest" in the first trimester and "the attending physician, in consultation with his patient,

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[566] 410 U.S. at 129–47.
[567] 410 U.S. at 156–59.
[568] 410 U.S. at 152–53.
[569] 410 U.S. at 152–53.
[570] 410 U.S. at 152, 155–56. The "compelling state interest" test in equal protection cases is reviewed under "The New Standards: Active Review," *infra*.
[571] 410 U.S. at 147–52, 159–63.