

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by Chairperson Tim Carmody at 3:30 p.m.. on March 11, 1998 in Room 313--S of the Capitol.

All members were present except: Representative Kline (excused)
 Representative Powell (excused)
 Representative Kirk (excused)
 Representative Ruff (excused)
 Representative Adkins (excused)

Committee staff present: Jerry Ann Donaldson, Legislative Research Department
 Mike Heim, Legislative Research Department
 Jill Wolters, Revisor of Statutes
 Jan Brasher, Committee Secretary

Conferees appearing before the committee:

Representative Pauls
 Representative Larkin
 Representative Toplikar
 Elmer Feldkamp, President, Right to Life of Kansas
 Judy Brown, President and Founder of American Life League-Stafford VA
 Paddy Jim Baggot, M.D. -Pope Paul IV Institute, Omaha, NE
 Steven Graber, Attorney, Hutchinson
 Queatin Martin, Topeka
 Cleta Renyer, Legislative Director, Right to Life of Kansas (Sabetha)
 Peggy Bowman, Pro-Choice Action League
 Denise Everhardt, Pro-Choice Action League
 Carla Mahany, ACLU-(written testimony only)

Others attending: See attached list

The Chair called the meeting to order.

HR 6010: **Attorney general directed to determine constitutionality of abortion and to establish that upon conception there is life**

Representative Pauls testified in support of **HR 6010**. Representative Pauls stated that this resolution would require the Attorney General to bring an action to determine the constitutionality of the Kansas statutes on abortion and on the administrative rules and executive orders that allow the use of state facilities or funds in the termination of lives of innocent human beings including the unborn. Representative Pauls stated that presently the unborn child is treated as a person for purposes of qualifying for medical care under the federal Medicaid program. The conferee stated that since the 1973 decision, *Roe v. Wade*, medical science has advanced. The fetus can now be medically determined to be clearly a separate person from his or her mother. *Roe v. Wade* stated that if personhood is established, then the fetus has a right to life guaranteed by the 14th Amendment of the Constitution. (Attachment 1)

Representative Larkin testified in support of **HR 6010**. Representative Larkin stated that the question of "when does life begin" needs to be determined by the court. (Attachment 2)

Representative Toplikar testified in support of **HR 6010**. Representative Toplikar stated that Kansas' laws or programs conflict with the First Article of the Kansas Bill of Rights. Representative Toplikar referred to scientific evidence contained in a report to a US Senator which is attached to his written testimony. (Attachment 3)

Elmer Feldkamp, President, Right to Life of Kansas, testified in support of **HR 6010**. The conferee related aspects of the *Roe v. Wade* case of 1973. The conferee stated that since scientific facts can show that life begins at conception, the life is protected by the Bill of Rights. The conferee referred to the case of *Plessy v. Ferguson* which was overturned by the *Brown v. Board of Education* decision. The conferee stated that it

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Judiciary, Room 313-S Statehouse, at 3:30 p.m.
on March 11, 1998.

was illegal for the state to fund abortions. Conferee Feldkamp referred to an article (attached to his testimony) explaining a procedure to detect birth defects in a fertilized human egg at the eight cell stage. Conferee Feldkamp referred to Louisiana law providing for equal protection. Conferee Feldkamp concluded by stating that the human embryo is alive and a separate being which calls for protection under the law. ([Attachment 4](#))

Judie Brown, President and Founder of American Life League, Stafford, VA, testified in support of **HR 6010**. The conferee stated that because Kansas law allows chemical or surgical abortions, Kansas laws allow the intentional, direct killing of an innocent human being. The conferee discussed a series of facts along with references to support her position. In her discussion Conferee Brown referred to a quote from Dr. K. Popov of Moscow State University that is contained in her written testimony. ([Attachment 5](#))

Paddy Jim Baggot, M.D. testified in support of **HR 6010**. Dr. Baggot presented a overhead presentation showing early cell development and growth during the first few weeks after the egg is fertilized. ([Attachment 6](#))

Dr. Baggot discussed abnormal cell development and defects in DNA in response to Committee questions. In response to a Committee member's question Dr. Baggot stated that viability of a baby when delivered early depends on the circumstances, generally many have survived with neo-natal care at 22 weeks. The conferee stated that any new born can not sustain life without care.

Steven Graber, Attorney, Hutchinson testified in support of **HR 6010**. The conferee discussed the Elizabeth Ann Tilson case and stated that a copy of that Kansas Supreme Court case is available. The conferee stated that Judge Clark made a determination that life begins at conception. The conferee stated that this is a pivotal issue. The conferee stated that the pre-born child is complete, except for nutrients. The conferee stated that the pre-born child is not an appendage, that he or she is unique specifically encoded at conception. The conferee stated that the human embryo is irreplaceable genetically. The conferee commented that the human embryo is on a continuum of development and all that is needed is the nutrients. Conferee Graber stated that abortion induces trauma to the point of death to the unborn child. The conferee stated that abortion has a detrimental effect on mothers, fathers and siblings. The conferee concluded by stating that the medical field is absolute regarding the scientific evidence that life begins at conception, but the legal field is not. The conferee stated that the constitutionality of *Roe v. Wade* has nothing to stand on considering the preponderance of scientific evidence.

Archibald Cox testified in support of **HR 6010**. The conferee stated that freedom of speech has been taken away from those who picket abortion clinics. Conferee Cox stated that it is the duty of the Supreme Court to interpret the laws not to invent them. Conferee Cox stated that with current scientific evidence, there can be no doubt medically that life begins at conception. The conferee stated that this is a public policy issue. The conferee concluded by stating that it is a demonstrative, observable fact that life begins at conception.

Queatin Martin of Topeka testified in support of **HR 6010**. Mr. Martin provided transparencies to illustrate his prepared testimony and discussed statements made by Carl Sagan. The conferee stated that he believes in a choice that does not result in the death of a defenseless child. The conferee stated that pro-abortion advocates use the ploy of calling abortion freedom of choice for the woman to deflect from what abortion really is. Conferee Martin compared the pro-abortion to the pro-slavery culture. The conferee stated that in the 1858 debates with Abraham Lincoln, Stephan Douglas asserted that he was personally against slavery, but that each state should have the right to choose whether to be a free state or a pro-slavery state. ([Attachment 7](#))

Cleta Renyer, Legislative Director, Right to Life of Kansas from Sabetha, provided written testimony in support of **HR 6010**. The written testimony discusses the similarities between abortion in the United States and the Holocaust. The testimony discusses the change from abortionist to pro-life of Doctor Bernard Nathanson after scientific evidence became known in the 1970's. Conferee Renyer's testimony provides references and an article telling of a rare operation to save an unborn's life. ([Attachment 8](#))

Denise Everhardt, Pro-Choice Action League, testified in opposition to **HR 6010**. Conferee Everhardt stated that there is medical evidence on both sides of the issue as to when life begins. The conferee proposed the concept of personhood as further discussed in her written testimony. The conferee discussed the *Levy v. Louisiana* and the *Wichita v. Tilson* case and related that neither case supported issues concerning protection of the fetus. The conferee stated that life is dependent on an imperial definition of personhood and that questions regarding when life begins are spiritual and religious issues. ([Attachment 9](#))

During discussion with Conferee Everhardt issues concerning when life begins on a spiritual level were discussed. Religious views of when life begins were discussed. Comments from Committee members during discussion on the contents of the bill stated that religion/morality is not mixed with the legal intent of the bill. In response to a question from a Committee member, Conferee Everhardt stated that it is not up to us to

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON Judiciary, Room 313-S Statehouse, at 3:30 p.m.
on March 11, 1998.

determine when life begins.

Peggy Bowman, Prochoice Action League, (speaking in opposition to **HR 6010**) responded to the members' question by stating that when life begins is a religious issue. Conferee Bowman stated that medically the points of view vary. Conferee Bowman discussed the legal perspective of when life begins. The Pro-Choice Action League's position is belief in the foundation that Roe v. Wade has given us. Conferee Bowman stated that the foundation of Roe v. Wade stated that the State has no legal right to interfere with a woman's right to have an abortion until viability of the fetus. Conferee Bowman stated that viability is an issue to be determined by the physician, not the legislature. This position has been upheld since Roe in case after case.

In response to a Committee member's inquiry, conferee Bowman stated that the Roe v. Wade ruling by the Supreme Court decision is that the state may not interfere with a woman's right to an abortion in the first trimester, the state may not interfere with a woman's right to have an abortion in the second trimester, except as it might relate to protecting her health and that the state may regulate abortion after viability, and that the state has an interest in fetal life after viability and may regulate abortion after that point. Conferee Bowman stated that in this state abortions after viability are regulated in that abortions are illegal except for severe and life threatening abnormalities and deformities of the fetus and to save the life of the woman.

In response to Representative Dahl's question, the conferee stated that the woman's right to terminate her pregnancy is absolute and she is entitled to terminate her pregnancy whenever she wants to and in any way and for whatever reason.

The Committee members discussed whether the opinion of the justices of the U.S. Supreme Court in the Roe v. Wade decision which states "a woman's right is absolute and she is entitled to terminate her pregnancy at whatever time, whatever way, and for whatever reason she alone chooses, with this we do not agree" was the majority opinion rather than the minority opinion as stated by the conferee.

Conferee Bowman responding to a question stated that Dr. Tiller believes that until a fetus is capable of living outside the womb without artificial means of support, the woman has a right to make the medical decision to end the pregnancy.

The Committee further discussed with conferee Bowman the position of the Pro-Choice Action League as being that life does not begin until after viability.

The Chair discussed with Conferee Everhardt issues concerning inalienable rights as established by the nation's founding fathers and the foundation of those rights.

The Chair stated that written testimony was provided by Carla Mahany, ACLU, in opposition to **HR 6010**. The testimony states that it would be impossible to vest a fetus with the full rights of a person without simultaneously divesting the pregnant woman of her own rights. (Attachment 10)

The Chair closed the hearing on **HR 6010**.

The Chair adjourned the meeting at 5:45 p.m.

The next meeting is scheduled for March 12, 1998.

HOUSE JUDICIARY COMMITTEE
GUEST LIST

DATE: 3-11-98

NAME	REPRESENTING
Shelby Jim Bagg of MD	Pope Paul VI Institute
Andie A. Brown	American Life League
Emeri Feldkamp	Right To Life of Kansas Inc.
Barbara Rew	Olathe / Eastern KS Right to Life
Marsha Straker	CWA of Kansas
Steve Graber	citizens
Melanie Graber	Citizen for Life
James Graber	"
Sara Cropper	Citizen for Life
Therese M. Walbrueier	Right to Life of Ks. Inc.
Robert A. Wallmeier	Right to Life of Ks. Inc. - May 3
Laura Malcol	Right to Life of Ks.
Audrey S. Oldkamp	Right to Life of Kansas, Inc.
Pat Turner	RTLK, Inc.
Marilyn Dalmans	Senator's wife
Jim A. Page	Intern
Angela Heelkamp	Senator's wife
Becky Renyer	Right to Life of Kansas, Inc.
Diane Renyer	Right to Life of Kansas Inc.

#1

STATE OF KANSAS



TOPEKA

HOUSE OF REPRESENTATIVES

JANICE L. PAULS
REPRESENTATIVE, DISTRICT 102

TOPEKA ADDRESS:

STATE CAPITOL—272-W
TOPEKA, KANSAS 66612-1504
(913) 296-7657

HUTCHINSON ADDRESS:

1634 N. BAKER
HUTCHINSON, KANSAS 67501-5621
(316) 663-8961

COMMITTEE ASSIGNMENTS
RANKING MINORITY MEMBER:
BUSINESS, COMMERCE AND LABOR
JOINT SENATE & HOUSE COMMITTEE
ON ADMINISTRATIVE RULES AND
REGULATIONS
MEMBER:
JUDICIARY
TRANSPORTATION
WORKERS COMPENSATION FUND
OVERSIGHT COMMITTEE

Testimony Before the
House Judiciary Committee
Regarding
House Resolution 6010
by
Representative Janice L. Pauls
District 102
March 11, 1998

House Resolution No. 6010 would require the Attorney General to bring an action to determine the constitutionality of the Kansas statutes on abortion and on the administrative rules and executive orders that allow the use of state facilities or funds in the termination of lives of innocent human beings including the unborn.

K.S.A. 75-702 requires the Attorney General to bring an action upon the passing of a Resolution by one branch of the legislature to either challenge the constitutionality of a statute or to represent the state in any matter where the state is a party.

The unborn child is presently treated as a person for purposes of qualifying for medical care under the federal Medicaid program. Additionally, the Legislature in 1994 provided that no pregnant convict can be executed until the child is born. The Supreme Court in Roe v. Wade

House Judiciary
3-11-98
Attachment 1

stated that the decision rested upon an earlier state of medical technology. As medical science has advanced since the 1973 decision in Roe v. Wade, we submit that the fetus can now be medically determined to be clearly a separate person from his or her mother. Roe v. Wade stated that if personhood is established, then the fetus has a right to life guaranteed by the 14th Amendment of the Constitution and Section 1 of the Bill of Rights of Kansas Constitution.

The bill additionally instructs the Attorney General to bring an action in mandamus and quo warranto against the Governor as to the use of state funds for abortion.

I'm willing to stand for questions but I suggest that the committee may wish to wait on questions to me so that all conferees may testify. Since I'm a member of this committee, I'll be available to members for questions.

Thank you for your attention to this bill. I believe that it affords an opportunity to have the Kansas abortion law tested, which would be helpful for both pro-life legislators and pro-choice legislators.

Respectfully submitted,



Janice L. Pauls
Representative, District 102

STATE OF KANSAS

BRUCE F. LARKIN
REPRESENTATIVE, DISTRICT SIXTY-THREE
R.R. 1
BAILEYVILLE, KANSAS 66404



TOPEKA

HOUSE OF
REPRESENTATIVES

AGENDA CHAIR

COMMITTEE ASSIGNMENTS
RANKING MINORITY MEMBER: TAXATION
INTERSTATE COOPERATION
MEMBER: EDUCATION
TOURISM

March 11, 1998

Testimony on HR 6010

Mr. Chairman and members of the Committee. Thank you for the opportunity to testify in support of HR 6010. As legislators we have had many debates over the many aspects of abortion. There are many diverse opinions on this issue as it is one that causes disagreement with many of my best friends.

It has always seemed ironic to me, in all the debates we have had on this issue and all the court cases that have been decided, we have overlooked the most fundamental question of all, and that is, "When does life begin?" In my opinion, without this determination by the court, the abortion issue will never be settled.

Hopefully this resolution will help to answer this fundamental question. It is time the courts had the opportunity to use modern scientific evidence to review this issue.

House Judiciary
3-11-98
ATTACHMENT 2

#3

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

REPRESENTATIVE, 15TH DISTRICT
507 E. SPRUCE
OLATHE, KS 66061



STATE CAPITOL OFFICE: 426 SOUTH
TOPEKA, KS 66612
(913) 296-7654

JOHN M. TOPLIKAR

MARCH 11, 1998

TESTIMONY

HOUSE JUDICIARY COMMITTEE
HR 6010

A person's life begins at conception. Our Kansas Constitution states in the First Article of the Bill of Rights that we have the inalienable right to life. Our laws or programs that conflict with this right are unconstitutional because they allow an innocent living baby to be killed.

Please pass this resolution to help bring us out of this disgrace - the unnatural holocaust of Kansas children, and back to the "inalienable natural right to life" that we are guaranteed.

House Judiciary
3-11-98
Attachment 3

THE SCIENTIFIC QUESTION: WHEN DOES A HUMAN LIFE BEGIN

Contemporary scientific evidence points to a clear conclusion: the life of a human being begins at conception, the time when the process of fertilization is complete. Until the early nineteenth century science had not advanced sufficiently to be able to know that conception is the beginning of a human life; but today the facts are beyond dispute.

Physicians, biologists, and other scientists agree that conception marks the beginning of the life of a human being - of a being that is alive and is a member of the human species. There is overwhelming agreement on this point in countless medical, biological, and scientific writings. Extensive quotation from such writings would be unnecessarily redundant except for the strenuous efforts by some parties to deny or obscure the basic fact. * The following are only a limited sample from the scientific literature:

Zygote, This cell results from fertilization of an oocyte by a sperm and is the beginning of a human being.

Development begins at fertilization, when a sperm unites with an oocyte to form a *zygote* (from the Greek *zygotus*, meaning "yoked together"). Each of us started life as a cell called a *zygote*.

K. Moore, *The Developing Human* 1,12 (2d ed. 1977).

In this first pairing, the spermatozoon has contributed its 23 chromosomes and the oocyte has contributed its 23 chromosomes, thus re-establishing the necessary total of 46 chromosomes. The result is the conception of a unique individual, unlike any that has been born before and unlike any that will ever be born again.

M. Krieger, *The Human Reproductive System* 88 (1969).

All organism, however, large and complex they may be when full grown, begin life as but a single cell.

This is true of the human being, for instance, who begins life as a fertilized ovum...

I. Asimov, *The Genetic Code* 20 (1962).

It is the penetration of the ovum by a spermatozoon and the resultant mingling of the nuclear material each brings to the union that constitutes the culmination of the process of *fertilization* and marks the initiation of the life of a new individual.

B. Patten, *Human Embryology* 43 (3d ed. 1968).

The formation, maturation and meeting of a male and female sex cell are all preliminary to their actual union into a combined cell, or *zygote*, which definitely marks the beginning of a new individual.

L. Arey, *Developmental Anatomy* 55 (7th ed. 1974).

A human being originates in the union of two *gametes*, the ovum and the spermatozoon.

J. Roberts, *An Introduction to Medical Genetics* 1 (3d ed. 1963).

Bisexual reproduction is characteristic of all vertebrates, and *gametogenesis* (the production of *germ cells*) is its first phase. The next phase, the beginning of the development of a new individual, is the fusion of two germ cells (*gametes*) of different nature; one, the *spermatozoon* from the male parent; the other, the *ovum* from the female parent. The result of this fusion is the formation of the first cell of the new individual, the *zygote*.

W. Hamilton & H. Mossman, *Human Embryology* 14 (4th. Ed 1972).

The zygote thus formed (by the moving together of two sets of chromosomes) represents the beginning of a new life.

J. Greenhill & E. Friedman, *Biological Principles and Modern Practice of Obstetrics* 23 (1974).

The zygote is the starting cell of the new organism S. Luria, *Thirty-Six Lectures in Biology* 146 (1975).

A new individual is initiated by the union of two gametes - a male gamete, or spermatozoon, and a female gamete, or mature ovum.

J. Brash, *Human Embryology* 2 (1956).

Fertilization is significant in that new life is created, but specifically the cardinal features of fertilization are that (1) the diploid number of chromosomes (46) is reconstituted and (2) the sex of the conceptus is designated chromosomally.

J. Thomas, *Introduction to Human Embryology* 52 (1963).

A new individual is inaugurated in a single cell (zygote) that results from the union of a male gamete (spermatozoon) with a female gamete (ovum or egg).

T. Torrey, *Morphogenesis of the Vertebrates* 47 (3d ed. 1971).

The fertilized egg cell - or zygote - contains nuclear material from both parents. It marks the beginning of the life of a new human being and is a useful focal point for presenting all the diverse aspects of organic reproduction.

G. Simpson & W. Beck, *Life: An Introduction to Biology* 139 (2d ed. 1965).

* This attachment is from a report to the U. S. Senate Committee on Judiciary by the Subcommittee on Separation of Powers.

Right To Life of Kansas, Inc.

614 SW 6th Ave., Suite 208
Topeka, Kansas 66603

phone 913-233-8601

FAX 913-233-8641

March 11, 1998

Mr. Chairman and members of the Judiciary Committee;

I am Elmer Feldkamp, President of Right To Life of Kansas, which had it's beginning back in 1971, even before the *Roe v. Wade* abortion decision, making us the oldest and only non-discriminatory, total protection pro-life organization in the state. RTLK is an affiliate of American Life League, the nation's largest pro-life, pro-family organization.

It is generally accepted that Courts will not decide questions of a constitutional nature unless absolutely necessary to a decision of the case. As U.S. Supreme Court Justice O'Connor states in the 1989 *Webster v. Reproductive Health Services*, "When the constitutional invalidity of a state's abortion statute actually turns on the constitutional validity of *Roe v. Wade*, there will be time enough to reexamine *Roe*. And to do so carefully." None of the many cases before the Courts since 1973 has placed the real issue squarely before them. The proposal before you is an effort to do that.

In The 1973 *Roe v. Wade* decision the Court tells us that preborn children are not persons entitled to any protection under the Fourteenth Amendment. Under that ruling the abortion procedure became just another medical or surgical procedure left to the wishes of the woman in consultation with her doctor. That idea stands as the so-called "essential holding" of what now is considered the law.

That essential holding of *Roe* forbids a state from interfering in any way with a woman's choice to "terminate her pregnancy" if it can be shown that continuing her pregnancy would threaten her life or health. This is such an elastic definition that can be, and is, stretched to include even the perceived "well-being" of the patient.

These essential holdings are based on what the justices refer to as the "factual underpinnings" found by the *Roe* Court. The main factual underpinning of *Roe* is based on the Court's finding that the word person, as used in the Fourteenth Amendment, does not include the unborn. The *Roe* Court quotes at length from testimony given by various church leaders, scientists and medical personnel, concerning the beginning of each individual human life. Because there were differing opinions presented, the Court found justification in stating, "We need not resolve the difficult question of when life begins. When those trained in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, the judiciary, at this point in the development of man's knowledge, is not in a position to speculate as to the answer." The Justices also used as justification the fact that the Texas law allowed one exception to it's prohibition of abortion -- "for the purpose of saving the life of the mother." That one exception has allowed over 38 million babies to be killed before birth.

But man's knowledge concerning the events surrounding the beginning of an individual human life has grown considerably since 1973. Those "facts" can now be "demonstrated" to the

House Judiciary
3-11-98
Attachment 4

court, not presented as someone's "religious theory." Whether anyone has a soul or not your life is protected by law.

In the *Casey* decision, the Court gives cursory review to several cases subsequently overturned by a later Court. One of those, *Plessy v. Ferguson* was overturned by the 1954 *Brown v. Board of Education* decision. In commenting on that decision, the *Casey* Court writes, "we must recognize that the *Plessy* Court's explanation for its decision was so clearly at odds with the facts apparent to the Court in 1954 that the decision to reexamine *Plessy* was on this ground alone not only justified but required." But those "facts" didn't become "apparent" to the court until the *Brown* case was filed.

The explanation given by the *Roe* Court concerning the beginning of life is even more at odds with the now known scientific facts of human reproduction. There can certainly be no more convincing justification to review *Roe* than the now known, irrefutable facts of the beginning of each individual person.

The state cannot, of course, unilaterally prohibit abortions being performed in the state until the U.S. Supreme Court changes its position, since the U.S. Constitution takes precedence over the state's constitution. But the Federal government does not and cannot require the state to pay for terminating the lives of preborn human beings as the state now does. It is the height of hypocrisy to consider an unborn child a "person," a member of the household, in order to qualify for medical care under the Medicaid program and then allow those funds to be used to pay an abortionist to kill that same "person."

And the state cannot, under Section 1 of the Bill of Rights of the Kansas Constitution, allow use of its property for killing unborn babies at any stage of pregnancy as is being allowed at the University of Kansas Medical Center at Kansas City. Then we have some of the tiniest of the human family being "arrested" on the campus of the University of Kansas Medical Center-Wichita after growing for 8 to 9 days. (See Attachment) If this tiny human being is not alive how can she grow? This pre-implantation diagnosis procedure is used because the baby can be checked for genetic defects at the 8 cell stage, "rather than when a pregnancy is 14 to 16 weeks along and the parents are more emotionally invested in it." For this man and woman to be "parents" there must certainly be a human baby, a human being, involved. The procedure is promoted as compassionately helping couples have a healthy child. There is certainly nothing wrong with trying to ensure healthy, happy children, but this process stands as a reminder of Hitler's desire to develop a master race. Even though it's being done using a more technologically advanced procedure it is just as abhorrent as the gas chambers and slave labor camps of the NAZI regime. Innocent human beings are being disposed of using state facilities. This is unconstitutional under Section 1 of the Kansas Bill of Rights which guarantees equal rights, and thus equal protection, to all "men", all members of mankind.

On behalf of all the members of the pro-life community, and especially on behalf of those babies yet unborn, I urge you to give favorable consideration to HR 6010. It's an opportunity to place the now known facts of the beginning of life before the Courts for review and for the Courts acknowledgement that preborn babies are human beings, that they are, in fact, persons entitled to equal protection under the Constitution.

New technique able to spot genetic defects at 8-cell stage

Procedure, which has been used in the births of only 45 babies, is coming to Kansas.

The Associated Press

WICHITA - On a shelf in her office at the Women's Research Institute, Tammie Schalue has two souvenirs from her days at the University of Florida.

One is a Gators pennant. The other is a snapshot of a mother holding her twin daughters, born healthy because of a new procedure called pre-implantation diagnosis.

The procedure is done when an embryo is at the eight-cell state, rather than when a pregnancy is 14 to 16 weeks along and the parents are more emotionally invested in it.

But it's coming to Kansas. Schalue is setting up a pre-implantation diagnosis lab at the Women's Research Institute, on the campus of the University of Kansas School of Medicine-Wichita.

"Hopefully, we'll be seeing our first patients in the fall," says Schalue, who actually works for Columbia Wesley Medical Center and who came to Wichita in March.

Schalue said she hopes the lab will become a regional center, serving Kansas, Nebraska, Missouri and Oklahoma.

Actually, it could serve any place accessible to Wichita by next day air service, she explained.

The Florida woman holding the twins in the photo has had two pregnancies end in miscarriage. The couple's only other child had died after two days of life.

"They had gone through a lot, hoping to have a healthy child, and we gave them two," Schalue said. The twins were born in October.

Pre-implantation diagnosis combines in vitro fertilization and genetic testing. It is designed to help people who have been diagnosed with a genetic abnormality, either through a family history or an affected child and usually both.

"Normally, these people don't have a fertility problem," Schalue said.

The woman is given fertility drugs to encourage her ovaries to release multiple eggs.

The eggs are harvested and combined in the lab with the man's sperm. By the next morning, researchers know whether fertilization has taken place.

"We go in at the eight-cell stage and remove one of the cells," Schalue explained.

The cell is put into a tube for PCR analysis. PCR, which stands for polymerase chain reaction, is the same procedure used in DNA testing in some criminal trials.

DNA, or deoxyribonucleic acid, contains the genetic coding that makes you you.

Each human cell contains packets of the microscopic, tightly coiled DNA strands that determine how tall you will be, what color your eyes will be and whether you will have your mother's sickle cell anemia.

Pre-implantation diagnosis procedure allow the DNA to be copied enough so that a genetic problem can be visualized, Schalue said.

The Wichita lab will start with diseases linked to the X chromosome, such as hemophilia and Duchene muscular dystrophy.

Many embryos with X-linked diseases don't even make it to term, Schalue said.

The babies who do make it often don't live long, Schalue said.

Males with the genetic defect have the disease; females are carriers.

The cells can be sexed through pre-implantation diagnosis and researchers can transfer back only the female embryos, increasing the chances of a healthy baby.

Theoretically, parents could select the sex of their child with pre-implantation diagnosis.

"Yes, we could do that; no, we're not going to," Schalue said.

Schalue said she thinks only a few babies have been born with the procedure for several reasons:

First, only about a dozen places worldwide use it. Chicago is the closest now.

Second, there has been little publicity about the procedure.

And, "I think people are still leery of DNA work" and they think it means genetic engineering, she said.

Schalue said she knows there are those who oppose the kind of work she's doing, because defective embryos aren't implanted.

They are allowed to grow in a culture dish but arrested after eight or nine days.

She sees her work from the other side — the hope she can give to people who otherwise wouldn't even try to have children.

As more of the human genome is mapped and researchers become able to test for such things as the potential of developing cancer, Schalue said, more ethical questions are certain to arise. And she admits she doesn't know what those questions are or how to answer them.

Though Schalue's work is done in the lab and she has no technical necessity for having contact with the potential parents. "It's more fun when things turn out positively" when she does, she said.

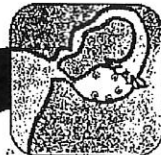
But she reminds that not every case is successful; "it's still a research procedure, and our patients need to be aware of that."

The Topeka Capital-Journal, September 24, 1992

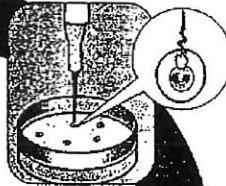
Gene screen

A prenatal procedure has been devised to determine the presence of genetic disease before pregnancy begins. Families with a genetic history of severe inherited disorders such as cystic fibrosis, muscular dystrophy, Tay-Sachs or hemophilia could virtually eliminate the chance of passing the disease to their children.

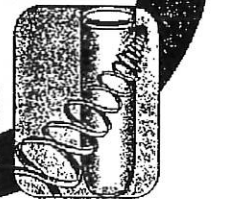
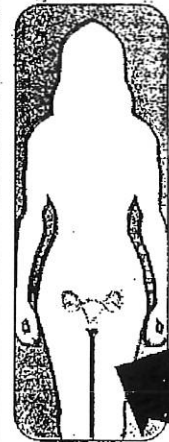
1 Medication is administered to stimulate the woman's ovaries to produce more than the single egg made during a given menstrual cycle.



2 The eggs are removed and fertilized in a sterile dish with protective fluids.



3 Three days after fertilization the eggs have reached the eight-cell stage. One cell from each embryo is removed with a micropipette.



5 When an embryo without the defective gene is found, its remaining seven cells are implanted into the mother. Those seven cells are sufficient to develop into a normal baby.

4 DNA obtained from each "biopsied" cell is analyzed to see if it contains the defect that produces hereditary disease. This test can be done in as little as six hours.

Source: Baylor College of Medicine

— Associated Press

'human' + 'individualized information' = human being

State owned facility

Must be 'alive' to "grow" to 8 cells.

"The one who will be a man is already one." (Tertullian, Apologeticum)

Are they handcuffed?
Are they taken to police station?
Are they "booked" in?
Are they provided nutrition?
In order 'to grow' they must be alive!

'human' + 'alive' + 'being' = person

Are they being murdered?

They are humans, live and have their being. They clearly are "persons" within the meaning of the Equal protection Clause of the Fourteenth Amendment.

(Levy v. Louisiana, 391 US 68, 70 (1968))

RIGHT TO LIFE



OF KANSAS, INC.

#5



National Headquarters:

P.O. Box 1350

Stafford, VA 22555

703-690-2510/metro

540-659-4171/phone

540-659-2586/fax

e-mail: sysop@all.org

web: www.all.org

Testimony Re:

The Kansas Human Life Resolution #6010

*Total Protection
For All Innocent
Human Beings!*

Mrs. Judie Brown, President

American Life League, Inc.

Wednesday, March 11, 1998

Before I formed you in the womb, I knew you... Jeremiah 1:5

All gifts are totally tax-deductible

House Judiciary
3-11-98
Attachment 5

Honorable members of the Committee, I am Mrs. Judie Brown, president of American Life League with headquarters in Stafford, Virginia. American Life League represents more than 360,000 American families who believe in the sanctity and dignity of every human life without exception.

I come before you today to testify in support of the Kansas Human Life Resolution #6010. There are specific, irrefutable reasons why the very fact that Kansas law allows even one chemical or surgical abortion means that Kansas law allows the intentional, direct killing of an innocent human being.

It is my privilege to be able to share these reasons with you today.

Fact #1: The destruction of an innocent human being whose life begins at fertilization is a violation of the natural law.

The natural law is a guide to individual conduct. But it also serves as a standard for laws enacted by the state. If an enacted law is contrary to the natural law, it is not even a law. It is void, an act of violence rather than the law. Abortion is always, and in every case, an act of violence.

As Cicero wrote in the century before Christ:

"What is right and true is also eternal, and does not begin or end with written statutes. . . . From this point of view it can be readily understood that those who formulated wicked and unjust statutes for nations, thereby breaking their promises and agreements, put into effect anything but "laws." It may thus be clear that in the very definition of the term "law" there inheres the idea and principle of choosing what is just and true. . . . Therefore Law is the distinction between things just and unjust, made in agreement with that primal and most ancient of all things, Nature; and in conformity to nature's standard are framed those human laws which inflict punishment upon the wicked but defend and protect the good."¹

Fact #2: The slaughter of an innocent human being from fertilization on is, in fact, the legalized killing of a human being who has an absolute right to be protected by the very laws that condone his or her destruction.

As bioethicist Dianne Irving, Ph.D. writes, in the book *The Human Development Hoax*:

"Before fertilization there exist a human sperm (containing 23 chromosomes) and a human ovum (also containing 23 chromosomes—the same number, but different kinds of chromosomes.) Neither the sperm nor the ovum, singly, by itself, can become a human being—even if implanted in the womb of the mother. They are only gametes—they are not human embryos or human

¹ Professor Charles Rice, *50 Questions on the Natural Law*, Ignatius Press, page 12.

beings. In contrast, the single-cell embryonic human zygote formed after fertilization (the beginning of the human being and the embryonic period) contains 46 chromosomes (the number of chromosomes which is specific for members of the human species)—and these 46 chromosomes are mixed differently from the 46 chromosomes as found in either the mother or the father—that is, they are unique for that human individual. And at the single-cell embryonic human zygote stage that unique individual human being is already genetically a girl or a boy. If allowed to "do his or her own thing", so to speak, this embryonic human zygote will biologically develop continuously without any biological interruptions, or gaps, throughout the embryonic, fetal, neo-natal, childhood and adulthood stages—until the death of the organism."²

Fact #3: The human being at fertilization is a person in every sense of the word, and thus deserves to have laws protecting him or her. Let us examine the minimum requirements of personhood:

"The task is simplified by first noting that personhood is not the same as personality. Personhood, like nature, admits of no degree; whereas personality demands training, education and character development, allowing for great variety among human individuals. Personhood is the same for all. Personality is not expected of the human individual in his zygote stage, but personhood is something else and the zygote does qualify for that; for a person is nothing more or less than an individual member of the human race.

"The word **individual** is used in the same sense as that which indicates the relationship between one rabbit and the rabbit species.

"Two factors are involved in the concept of the individual. First, as the word indicates, the individual is an undivided whole. Second, the individual is dimensionally non-continuous with others of the species. Thus, the human individual is not and never can be a part of any other human individual, including his or her mother.

"Reference to the individual of any species necessitates such expressions as 'this rabbit' or 'this man.' Common usage regards expressions such as 'this man' and 'this person; as interchangeable. In other words, a special badge of identification applies to man. He or she is called a **person**. This designation is given in recognition of man's unique and highly significant characteristic of being master of his own destiny. Every individual, because he or she belongs to that species of beings whose members are capable of deliberate and responsible conduct, is automatically a person.

² C. Ward Kischer, M.S., Ph.D. and Dianne N. Irving, M.A., Ph.D., *The Human Development Hoax*, page 135.

"The test of personhood is not whether a human individual has even exercised deliberate choice or is currently in the act of deliberating, but whether he or she belongs, in virtue of his or her nature, to that species whose members are capable of such exercise."³

Fact #4: Modern biology understands the undeniable truth of who exists at fertilization, and it occurs to me that when eminent Professors of Biology, including Dr. D. Popov of Moscow State University can teach the facts, surely the laws of Kansas should be no less precise.

Popov states:

"From the point of view of modern biology (genetics, embryology) human beings' life begins from the moment of merging of masculine and feminine sexual cells when a new nucleus is established, the one containing unique genetic data.

"During the entire prenatal period a new human being can not be considered as a part of mother's body: it must not be dealt with as an organ or a part of the body of mother.

"So it is obvious that abortion accomplished at any term of pregnancy is a deliberate ending of human life (the life of human being as biological individuum)."⁴

Ladies and gentlemen, if society discriminates among those who share our common humanity, deeming that some are only "biologically" human and others "personally" human by reason of their size, place of residence or perceived value, then society is on the road to total destruction. A human being is not defined by his or her desirability in the eyes of another; a human being is human because he or she has been endowed with the gift of life at fertilization, through a procreative act in which a woman, a man and God have participated. This is not debatable, this is undeniably true.

And so I ask you now, whose subjective criteria will condemn others in Kansas in the future?

Whose "rights" will be exerted over the dead bodies of the less strong?

When will we understand that our common humanity before God and each other is threatened by the legislative dehumanization of certain of our brothers and our sisters?

Please, support and pass the Kansas Human Life Resolution.

Thank you.

³ Edward Robinson, *Fetal Life and Abortion*, Anastasia Books, pages 16-17.

⁴ V. A. Golichenkov and D. V. Popov, undated statement from Moscow State University c. 1995.

#6

CURRICULUM VITAE

Paddy Jim Baggot, M.D.

Personal Data:

Present Address:
5006 Cuming Street
Omaha, Nebraska 68132
(402) 553-0183

Permanent Address:
2650 Edison Avenue
Granite City, IL 62040
(618) 452-3364

Date of Birth:
2-23-56

Employment:

July, 1996 to present Pope Paul VI Institute, 6901 Mercy Road, Omaha, NE 68106
Obstetrician, Gynecologist, Perinatologist, Geneticist

1994 - 1996 Medical College of Virginia, Dept. of Human Genetics
Instructor and Fellow in Human Genetics

Education:

1974-1978 St. Louis University, BS in Chemistry
1978-1982 Univ. of Illinois School of Medicine, MD
1982-1983 Mt. Sinai Hospital, Surgical Intern
7/83-12/83 Univ. of Illinois, Surgical Resident
1/84-7/84 St. Louis University ENT Resident
1984-1988 St. Louis/IL. Emergency Physician
1988-1992 Mt. Sinai Hospital, OB/GYN Resident
1992-1994 U. of Arkansas, Maternal-Fetal Med. Fellowship

Licenses and Board Exams:

Permanent: Illinois, Missouri, Arkansas and Virginia Medical Licenses
Diplomat of National Board of Medical Examiners 1983
Passed General OB/GYN written exam 1992
Passed MFM written exam 1995
Genetics Board Exam 1996
Board Eligible in OB, MFM and Genetics

Honors and Awards:

Who's Who Among Students in American Universities
Outstanding in Orthopedics
1989 CREOG 98%ile
1990 CREOG 99%ile
CREOG stands for the Council on Resident Education in Obstetrics and Gynecology. They gave yearly inservice exams to all OB residents.

House Judiciary
3-11-98
Attachment 6

The Manifest Humanity of the Human Embryo

It was said by Karl Marx that ideology is the theoretical justification of a practical interest. It cloaks with sophistry the defense of personal gain, which would be shameful to admit openly.

Sometimes we can see the truth, but we can also see what it would cost us to embrace it. In giving women the right to vote, men gave up considerable power to women. When blacks were discovered to be persons, wealthy white men had to give up the lucrative benefit of owning slaves. If we give rights to human embryos, there are some of us who will lose a certain amount of powers. If human embryos were really human beings, would we be willing to cede power to them? This is the hidden angst Marx spoke of.

We are all sinners in one way or another, and no one of us should preach with a air of superiority. We think we are much smarter than we really are. Sometimes, we know what we should do but we have no idea why we should do it. Only if we take the risk, and do what is right, will we learn how truly good it is to do what is right. Let us pray we can take that risk a little more often.

In ethics, figuring out what to do is usually obvious. The difficult part is to actually do it. What I am about to say, everyone already knows. What I will say, is that human life begins at conception. There is no legitimate scientific debate of any consequence on this question.

What I hope to do is to merely illustrate the humanity of the human embryo. It is more difficult to dehumanize someone when you get to know them personally. I will illustrate what each person in this room did when they were human embryos. What challenges and crises did they face? Who was their support? How did they take command of their environment, so as to ensure their own survival? With that, let us begin.

The individual human life is a life cycle. It has a beginning, at fertilization, and an end, at death. At every stage in between is the gradual and orderly transition from one developmental stage to the next. Only at these two end points are there any monumental changes.

Right before the time of fertilization the lone egg is surrounded by up to several hundred sperm. Each sperm cell tries to find and penetrate the egg. Fertilization has occurred when the first sperm cell completely penetrates the protective coat of the egg. At that point the genetic makeup of a new human being is immediately and permanently

determined. From that point on this new human being directs its own development, takes command of its environment and does what is necessary to grow and develop.

Immediately after the first sperm penetrates the egg, a lethal threat overshadows the new human being. If a second sperm penetrates the egg, the new human being will be doomed literally from the start. To protect itself, the new human being undergoes activation, and the other sperm are locked out by the cortical granule reaction.

The sperm and the egg each contain half of the normal amount of genetic material. If two sperm cells penetrate simultaneously, an incorrect amount of genetic information is present in the new human being. This usually results in a miscarriage. Twenty per cent of miscarriages result from the penetration of more than one sperm. Thus, in the first moment of life, the new human being performs a death defying act of self preservation. Having triumphed over the lethal threat, it rests for a day.

On the second day of life, the new human being performs its first cell division. This is a most complicated and challenging cell division. In most cell divisions, there is one nucleus which contains all the genetic information from Mom and Dad. There are twenty-three chromosomes from Mom, carrying her genetic information. There are twenty-three chromosomes from Dad. Each chromosome is copied once. Then one copy goes to one daughter cell and the other copy goes to the other daughter cell.

In the new human being, there is not one whole nucleus with forty-six chromosomes. There are two pro-nuclei, one from the sperm and one from the egg. Each contains half of a normal nucleus. A net, called a spindle, is stretched from one pro-nucleus to the other pro-nucleus. Each chromosome is copied. Each chromosome, along with its copy, align in the middle of the net or spindle. Then one of each pair goes to each end or pole of the net. What had previously been a male pro-nucleus, having only Dad's chromosome, is now the nucleus of a daughter cell, with one from Dad and one from Mom for each of the twenty-three pairs of chromosomes. Now, the normal human complement of forty-six chromosomes has been reestablished in each of the two daughter cells.

The new human being begins its journey toward the uterus. Many suspect that the new human being at this stage has no intelligence. Yet there is a curious fact here which prefigures the later development of the brain. Embryos which have an abnormal numbers of chromosomes, if they reach the uterus, usually miscarry. If they survive to be born, they have greater or lesser degrees of mental retardation. Some embryos never make it to the uterus. They usually remain at the end of the tube, resulting in tubal pregnancies. The curious part is that these tubal pregnancies often result from chromosomally abnormal pregnancies. Thus, embryos which could become mentally

retarded if they reached the uterus are often not able to find their way from the first few days of life.

Now it has been suggested by some that the new human being, or early human embryo, is just a "clump of cells." Such a dehumanizing characterization compares a human being to a piece of meat. It is meant to convey a stagnant, and therefore relatively lifeless condition. In fact, nothing could be further from the truth. From day one to day five, the new human being goes from a single cell to 120 cells. **THIS GROWTH IS DYNAMIC!** Imagine your stock broker called and said a company was worth \$1,000,000 on Monday, but on Friday it was worth \$120,000,000. You would not believe him. Or imagine a man was married on Monday, and by Friday, he had 118 children. **THIS IS DYNAMIC GROWTH.** Surely, a new human being accomplishes more in the first five days than most teenagers would accomplish over a summer.

On day five, the new human being has grown so much it can no longer fit in the protective covering of the zona pellucida. In a prefigurement of birth nine months later, the new human being "hatches" itself out of the zona pellucida and is now free in the uterus or womb. Let us now call the new human being an embryonic baby.

After birth, the first thing a smart baby wants to do is grab hold of its mother, the source of love and nutrition. That is what the new embryonic baby does, too. It attaches itself to its Mom on the inside lining of the womb. This lining is called the endo (inside)-metrium (womb). When a pregnancy does not occur, this is the lining which is sloughed off during menstruation.

Babies after birth are ever curious and love to explore. They love to cross boundaries, sometimes even when they are not supposed to. The new embryonic baby also likes to cross boundaries. On day seven, the new embryonic baby sets out to cross the endometrium. This baby wants to be totally surrounded by Mom. He pushed aside the cells of the endometrium, and pulls himself into Mom.

Babies also love to play. One of their first priorities is to establish a playroom. The embryonic baby, on day eight of life, begin work on the ammonitic cavity. In the months ahead this will become a water-filled home to live, play and sleep in.

Nothing delights a baby more than being surrounded by warmth and love. On day nine, the new embryonic baby has now pulled himself completely into Mom's loving embrace, and is surrounded by Mom on all sides. Far from being a stagnant "clump of cells," this baby took only 2 days to get from here to there. This baby has so many other projects going on simultaneously I could not list them all. One thing I would mention though, is that spaces have developed around the baby that could become blood vessels. The stage is now set for a singular and momentous triumph.

Another top priority of babies is food, eating and self sustenance. A baby with a banana looks like he is enjoying himself. Now, look at the new embryonic baby. On days ten to eleven, the new embryonic baby erodes into one of Mom's tiny blood vessels, and he is now surrounded by, if not almost swimming in sustenance. As before, there are so many other projects going on I could not list them all.

For postnatal babies, what could be a more profound pleasure than latching on to Mom at the source of love and nutrition. By twelve to fourteen days our new embryonic baby is attached to Mom's sustenance by a little baby stalk, which we will soon become a little baby umbilical cord.

Another thing babies love to do is to demand attention. Babies with a loud cry can get noticed. The new embryonic baby can do better than that. Because on day fourteen, Mom got the shock of her life when she **missed her period!**

In the first two weeks of life, things speed along at a dizzying pace. Never again will so much be done by such a little one in such a short period of time. Already, at four weeks of life, the new embryonic baby begins to take recognizance shape. Can you identify the anatomy?

Notice at week five, the magnification is much less. Growth proceeds apace. Can you identify the anatomy?

At the sixth week of life, it is now eight weeks since the last menstrual period. Can you make out the fingers? The face?

We are now at eight weeks of life, ten weeks after the last menstrual period.

Now we are at ten weeks of life, twelve weeks after the last menstrual period. Note the ammonitic sac, which was started on the eighth day of life. Can you see toes? Now the embryonic baby clearly looks like the other children but the exciting pace of the first two week is only a memory now.

Is this baby a person? Am I a person? Are you a person? Everyone in this room, at one time, trace these same exact steps. If these babies are not people, then what are we?

7

Choice and Who Decides
When Personhood is the Issue

Quentin L. Martin
3-11-98

In Support of the Human Life Resolution

House Judiciary
3-11-98
Attachment 7

Ladies and gentlemen, I would like to begin my remarks tonight by discussing Choice and who decides.

From the outset, it is important to note that pro-abortion advocates and I both believe in "choice". The only difference is that I don't believe in a choice that results in the death of a defenseless child. Abortion advocates do believe in such a choice.

Now, pro-abortionist often say that I'm wrong -- that the issue is not, "Is abortion right or wrong," or, " Does abortion result in the death of an innocent human being," but, "Who decides -- the woman or the state?" Hence, the worn-out cliché, "Not the church, not the state, only women must decide their fate."

This is indeed a clever ploy, because liberals know if they are forced to defend the act of dismembering a defenseless child, they lose! So, they talk about this abstract concept of "choice" and hope you never ask the question, "What exactly is it that is being chosen?"

This play of distracting people from what's being chosen is nothing new. I recently saw a bumper sticker which read, "Don't like abortions, don't have one!" Ironically, that is the same bizarre logic slave owners used a century ago to defend slavery. Try this "Don't like slavery? Don't own one!" In their minds, the issue was not, "Is slavery right or wrong?" but "Who decides, slave owners or the state?"

During his 1858 debates with Abraham Lincoln, Stephan Douglas repeatedly asserted that while he was personally opposed to slavery, he felt that each state should have the right to vote it up and down. To see how ridiculous such reasoning is, imagine someone saying "I'm personally opposed to rape, but I think men, not the state, should decide the issue." Or, "I'm personally opposed to pedophilia, but if you want to have sex with children, I'll look the other way."

Lincoln responded by pointing out that Douglas could not legitimately discuss "Choice and who decides" without first demonstrating beyond all doubt that slaves were non-human.

Lincoln once also challenged an imaginary proponent of slavery by noting that there was nothing which could be said to question the humanity of blacks that could not also apply to many whites as well:

You say A. is white and B. is black. It is color then, then: the lighter having the right to enslave the darker? Take care. By this rule, you are to be slave to the first man you meet with fairer skin than your own.

You do not mean color exactly? -- You mean the whites are intellectually the superiors of the blacks, and therefore have the right to enslave them? Take care again: By this rule, you are to be a slave to the first man you meet with an intellect superior to your own. But, you say, it is a question of interest; and, if you can make it your interest, you have the right to enslave another. Very well. And if he can make it his interest, he has the right to enslave you. (The collected works of Abraham Lincoln, Rutgers University Press, 1953. vol. II, p.222)

In the same way, there is nothing which could be said to question the humanity of the unborn that would not also call into question the humanity of many people walking around outside the womb.

Therefore, with abortion, pro-abortionist can't talk about "choice and who decides" without first demonstrating beyond all doubt that the unborn are not human and that the "choice" they are offering does not destroy a defenseless human being. This is not asking too much from them. After all, what would we think of a structural engineer who chose to blow up an old building without first making sure no human life was inside?

Hence, the issue that separates me from pro-abortionist is not that they are for choice and I'm against it, but that I believe that the right to choose ends where another person's right to live begins.

With that in mind, the key question I want to ask tonight is, "How are we as Americans going to define legal personhood?. Are we going to define it in terms that include unborn children or in terms that exclude them because they stand in the way of something we want?"

Now abortion advocates skirt this question by dehumanizing unborn babies, and once again this is nothing new. Unfortunately, we Americans have long history of stripping rights of personhood from people who stood in the way of something we want.

I offer an excerpt from a speech Abraham Lincoln gave during his debates with Judge Stephen Douglas. This excerpt demonstrates the beliefs held by the Democrats of that day, concerning the personhood, the humanity of the black man. I will read it, as written in his speech; then, I will reread it, without changing the meaning, to show there is a direct correlation between the racist and prejudicial views of the Democrats, in Lincoln time, and the beliefs of abortion advocates in our time.

Lincoln stated, "By contrast, the Democrats deny his [the negro's] manhood; deny, or dwarf to insignificance, the wrong of his bondage; so far as possible, crush all sympathy for him; and cultivate and excite hatred and disgust against him; compliment themselves as Union-savers for doing so; and call the indefinite outspreading of his bondage a sacred right of self-government." (created equal? The complete Lincoln-Douglas Debates of 1858. University of Chicago Press 1958. ppxxi)

restated to show direct correlation:

"By contrast, the Pro-abortionist deny his [the Unborn's] personhood; deny, or dwarf to insignificance, the wrong of his destruction; so far as possible, crush all sympathy for him; and cultivate and excite hatred and disgust against him; compliment themselves as Saviors of Women's rights for doing so; and call the indefinite outspreading of his destruction a sacred right of Women's right to choose."

As you can clearly see, the views of the Democrats of 1858 concerning the personhood of Black Americans and the views of Abortion advocates of 1998 concerning the personhood of the unborn are frightenly identical!

As America did as much with Black Americans, whose quest for emancipation stood in the way of its desire for free slave labor; America, at the same time, stripped Native americans of their rights because we wanted their land.

In like manner, abortion advocates define their victim class -- unborn babies -- as less than human because unborn babies stand in the way of something they want: the unrestricted freedom to choose --even if another person has to die as a result of that choice.

To further prove that pro-abortionist use the same rhetoric to dehumanize unborn babies racists used to dehumanize blacks, women, etc.,. I offer' the following evidence:

- 1) Carl Sagan compares unborn babies to parasites, worms, amphibians, pigs, etc.
- Parade Magazine 4-12-90
- 2) Black inner city youth compared to "violent, oversexed monkeys."
- Dr. Frederick Goodwin, Los Angeles Times 10-14-93
- 3) Dr. Warren Hern, Abortion Practice (pp 8-9): Pregnancy (i.e. the unborn child) is a "disease" (Hitler called the Jewish people "bacilli")
- 4) African Pigmy put in a cage with monkey labeled "the missing link"
- American Heritage 10-92 *Ota Benga*
- 5) Charles Darwin (The Descent of Man and Selection in Relation to Sex):
- D. Appleton & Co., 1896, p. 564

Some liberals, like Carl Sagan, argue that the unborn child is a "parasite" living off its mother's body. But assertions of this sort betray a total ignorance of the mother-child relationship. As anyone who has ever taken a seventh grade biology class knows, a parasite is always of a different species than its host. This is clearly not the case with the unborn child who was conceived with it's mother's own flesh and blood. A parasite is an alien being who should not be present. the child, in sharp contrast, is where it naturally belongs at that stage in its development.

And just when you thought it couldn't get worse, abortion advocates are hailing a study from the University of Edinburgh where 10-week developing girls will be killed in utero and their ovaries stripped from their bodies so that the eggs from those ovaries can be implanted in the bodies of women unable to conceive. These are the same baby girls we are being told are nothing more than blobs of tissue and now we discover that by 10 weeks gestation, these baby girls are so fully formed that their ovaries will have produced every egg they will ever produce as adult women. (Journal of Medical Ethics, 1995; 21:298-304)

We are forcing motherhood on baby girls whose personhood we are denying! we are saying these baby girls are not people, but we are forcing them to become mothers.

In sharp contradiction to the twisted and sickening rhetoric of abortion advocates, the pro-life position is that human life is a continuum beginning at conception and ending at natural death. You didn't come from a zygote, you once were a zygote. You didn't evolve from a fetus, you once were a fetus. This position is both scientifically and philosophically sound.

There is no longer any doubt that individual human life begins at conception. Dr. Landrum Shettles, the first scientist to successfully achieve a conception in a test tube, writes that, "conception confers and defines life." Prior to his acceptance of unrestricted abortion on demand, Planned Parenthood President Dr. Alan Guttmacher was perplexed that anyone, much less a medical doctor, would not know this. "This all seems so simple and evident that it is difficult to picture a time when it wasn't part of the common knowledge."
(Life in the Making, Viking Press, 1993)

In 1981, the United States Senate held hearings on the question, "When does human life begin?" Though invited to do so, abortion advocates could not produce one expert witness who would testify under oath that life begins at any point other than conception.

In fact, prenatal development is so explosive that by the end of the 43rd day, every unborn child has a heart that is beating and a brain that is producing brainwave activity. And since few abortions take place prior to week six (since, as Dr. Hern points out, they are medically unsafe for the mother), every child abortion kills has a functioning heart and brain.

by the end of the second month, all physiological systems are present. This is why fetologists have concluded that the unborn may experience pain by week eight but certainly by week thirteen. When one considers that suction abortions crush the unborn child while D & E abortions tear it limb from limb, the reality of fetal pain must be reckoned with by those who call themselves "Pro-choice." In the words of Dr. Hern, "The sensations of dismemberment flow through the forceps like an electric current" during a typical D&E procedure.

An unborn child differs from newborn in four ways, none of which are relevant to its status as a human being. Those four ways are size, level of development, environment and degree of dependency. Professor Stephen Schwarez (author of *The Moral Question of Abortion*, Loyola university Press, 1990) proposes the acronym SLED as a helpful reminder of the differences:

Size: Pro-abortionist commonly argue that Pro-lifers dehumanize women by equating a single celled zygote with a fully formed adult woman. This very argument was raised by a law student from Washburn last year during hearings on the Human Life Resolution. This argument is purposely misleading. The target of an abortion is never a single celled zygote, but a six week (or greater) developing baby with a functioning heart and brain. In the words of abortionist Dr. Warren Hern, "There is evidence that abortions performed earlier than 6 weeks from the LMP (last menstrual period) have a greater rate of continued pregnancy and complications." Hence, they are seldom done prior to that time. (*Abortion Practice*, p. 301) In short, the logic of this argument seems to be, "Because it is OK to kill a zygote, we can therefore dismember a child at a later stage in the pregnancy."

In reality, the argument is a strawman. The pro-lifer is not saying that an adult woman is equal to any cell, but that a conceived zygote with the inherent capacity to function as a human being is worth protecting whatever its size may be. (we do not, for example, advocate protecting a cell which falls from her arm, since that single cell does not have the natural inherent capacity to function as a human being.) In essence, the pro-lifer is arguing that size does not determine rights. Large people are not entitled to more rights than small people. (Men, for example, do not have more rights than women simply because, on average they are larger.) Furthermore, the argument misrepresents the word "equal." When pro-lifers say that all human beings are equal in their right to live, they are not saying that all human beings are equal in function. Rather, the pro-lifer is arguing that all human beings, regardless of size or ability, are equal in nature (being). No one, for example, is arguing that we appoint a zygote or a fetus to the Chair of Logic at a major university. But because a zygote is not "equal" to a female professor in critical thinking skills does not mean that he shouldn't share an equal right not to be butchered. (A newborn baby is not "equal" to an adult woman in terms of function either --although few would use this to call into question its status as a human being.)

Finally, concerning size, it is a non sequitur to say that because pro-lifers believe that small persons should be treated with dignity that ~~that~~ the value of larger persons (i.e. women) is thereby diminished. Treating persons with dignity at whatever stage they are at (including the one cell stage) does not logically make developed people worth less. It simply means that we must expand our concept of personhood to include those we previously sought to dehumanize. (Not long ago many people opposed civil rights legislation for Black Americans on grounds that such legislation would threaten the inherent dignity of whites.)

Level of Development: It is true that an unborn child is less developed than a newborn, but this, too, is morally irrelevant to the child's status. A newborn for that matter is less developed than an adolescent, but that does not mean the newborn has less of a right to life. To cite another example, many disabled adults are less developed than many newborns, but that hardly justifies killing them. Nor do we kill retarded children simply because their brain function is less than that of an average 3-year-old. It is one thing to say that critical thinking distinguishes us as human beings. It's quite another to assert that our right not to be butchered depends on how articulated we are.

Environment: Where one is has no bearing on who one is. A child in an incubator is not less of a child than one in her mother's arms. Likewise, a child of 23 weeks inside the incubator of her mother's womb is not less of a person than the prematurely born infant of 23 weeks who is sustained by neonatal technology.

Degree of Dependency: If dependence on an external source makes one non-human, then all these dependent on kidney machines, pacemakers and insulin would have to be declared non-persons. As Dr. Bernard Nathanson, former abortionist and co-founder of the National Abortion Rights Action League, points out there is no ethical difference between an unborn child who is plugged into, and dependent upon, her mother and a kidney patient who is plugged into and dependent upon a kidney machine. To cite another example, Siamese twins who depend on each other's circulatory systems certainly do not forfeit their right to live simply because they are not viable.

Hence, because the unborn child differs from the newborn only in these four ways, and because none of these factors are essential to its status as a human being, it follows that the unborn child is indeed human and that those who call themselves "pro-choice" are asking us to sanction a choice that destroys a human baby.

Now lest you think that's just inflammatory rhetoric, I brought with me tonight a short video we will now roll for you. Be advised that this short six-minute film is extremely graphic because it contains pictures of aborted babies. I want you to know this up front so you can choose not to view the film if you so desire. We have even taken out the narration and lyrical music so people who look away won't hear anything they don't wish to hear.

-- Video Presentation--

I would like to end my testimony with a question that I believe is deserving of an answer and an explanation:

In a 1961 Planned Parenthood brochure (Plan Your Children for Health and Happiness) Planned Parenthood clearly states that abortion kills a baby and is dangerous to a woman's life and health. In 1968, everything changed and PP came to support total abortion on demand, now claiming abortion doesn't kill a baby or harm women. My question is, which is it? Were they lying then or are they lying now?!

#918

Right to Life of Kansas, Inc.

614 SW 6th Ave., Suite 208
Topeka, Kansas 66603

Phone (913) 233-8601

FAX (913) 233-8641

March 11, 1998

Mr. Chairman and members of the Judiciary Committee:

I am Cleta Renyer, Legislative Director of Right to Life of Kansas. We are the oldest and the only "no exceptions" pro-life group in the state of Kansas. I am truly grateful for the opportunity to testify in favor of House Resolution 6010. This piece of legislation is so important to our organization that we have devoted the last four years to improve and promote it and finally to be able to appear before this committee. H.R. 6010 could be the vehicle that could challenge *Roe vs. Wade*.

Abortion is so very evil and is tearing apart the heart and soul of this once great country. It is a fact that every abortion has one victim, the pre-born baby, but in recent years more and more experts are talking about the hidden victim, the mothers. The *Roe vs. Wade* decision was based on lies and deception; it has cost 35 million babies their lives. *Roe vs. Wade* has also led a generation of young women to believe they have the right to kill their baby; **NO ONE** has the right to kill another human being.

This January, I had the privilege of being part of the March for Life with three of my oldest grandchildren. On our day to sightsee, we visited a new memorial, the Holocaust Museum. There were a plethora of horrible pictures showing the people enclosed by unpenetrable walls in the concentration camps, huge ovens used to cremate those that were not useful to them and even explanations on how the Nazis' would allow the Red Cross to inspect the camps making sure the Red Cross did not see any of the people being killed. After the tour, we began discussing the horror and death that we had seen and realized that we have much the same tragedy here in Kansas. Instead of concentration camps, we have an abortion clinic surrounded by walls, a crematorium to burn the little babies bodies and Kansas Legislators who were invited to inspect the clinic on a day that there were no killings. It is hard to believe that in the late 1940's the

House Judiciary
3-11-98
Attachment 8

United States of America condemned the Nazis for what they did to a race of people, a race they classified as non-persons, when today a similar form of persecution is fully accepted by so many Americans.

Bernard Nathanson was the most prominent abortionist in the early 1970's. He performed 5,000 abortions himself, assisted with 10,000, and oversaw 60,000 as a medical director of the world's largest abortion clinic. In addition, he helped form what is now known as the National Abortion and Reproductive Rights Action League (NARAL.) The introduction of ultrasound technology in the early 1970's prompted him to reconsider his position on when life begins. In the 1980's, he helped produce the ground breaking pro-life videos, *The Silent Scream* and *Eclipse of Reason*. These were the first films to include footage of unborn children in the womb. He now says that there are no medical indications or reasons for abortions--*none*.

Please take a few minutes to read the insert in my testimony about the rare operation that saved an unborn infant's life. The article is about the use of ultrasound to perform surgery on a child in the 16th week of pregnancy and the child's normal birth.

You will probably be hearing testimony from the opponents of this resolution make accusations that this resolution attempts to elevate the rights of a fertilized egg above those of an adult woman. This resolution only gives rights back to the pre-born child that were theirs until 1973 in the United States.

I would now like to compare the rights of animals in this country to the rights of the pre-born baby. The Endangered Species Act protects not only 170 species but also protects their unborn. Of the 170 species, three are amphibians, fifty-six are birds, seven are clams, and two are snails; the remaining forty-two are plants. Anyone who violates a provision of the Endangered Species Act is subject to criminal prosecution and a maximum fine of \$50,000 and a year in prison, or both.¹ Legally, the fertilized egg of an eagle has more rights than an unborn child. And in Wisconsin, stepping on a snail can land you in jail--with a \$10,000 fine! But a woman can have her baby sliced and diced, for a price, right into the ninth month of pregnancy--all within the confines of the law.²

¹Life in Oregon, 9-11, 1997.

²The Milwaukee Journal, February 21, 1992.

In an article titled, *How Abortion Divides Our Country*, by Charley Reese, he writes, "People should understand what abortion is: It is using death to solve a problem. This new life, a creature of God is inconvenient or too expensive or too troublesome. So terminate it."³ It is time to turn the abortion debate around from saving *some* of the pre-born babies to saving **ALL** of them. The terms "wanted" and "women's choice" will no longer be factors in the abortion debate; instead, a child's life will be taken into consideration. Please consider moving H.R. 6010 out of committee for a debate on the floor of the House of Representatives.

³AFA Journal, 19-20, March, 1997

TCJ Wed. Mar 12, 97

Rare operation saves unborn infant's life

By PAUL W. VALENTINE
The Washington Post

A newborn baby is alive and well after surgeons at the University of Maryland Medical Center in Baltimore performed a procedure in his mother's womb in the 16th week of pregnancy that reversed the unborn infant's heart failure.

"He should be a nice, normal healthy citizen," said Carl Weiner, head of Maryland's Center for Advanced Fetal Care, where the procedure was done and where Dikhara Elijah Holloway was born Feb. 26 at 6 pounds, 9 ounces after a normal full-term pregnancy.

Weiner, who is also head of obstetrics, gynecology and reproductive sciences at the medical center, said the procedure involved placing a shunt, or tube, in the unborn baby's chest cavity to drain accumulated fluid that had pushed the heart aside, causing it to fail.

The condition is uncommon and typically occurs later in pregnancy, at about the 26th week, Weiner said, when the fetus is more stable and a shunt can be inserted more readily.

"It was very unusual for it to happen so early on," he said. "I've never had to shunt a baby this early."

The problem was discovered when the mother, Dionne McDonald, 26, of Columbia, Md., made a routine doc-

tor's visit when she was 15 weeks pregnant. An ultrasound imaging test showed the fetus' chest was filled with fluid.

In the next few days, McDonald underwent amniocentesis to drain the fluid, but the fluid returned, and the baby's condition worsened.

Weiner drained the fluid a second time. Then, with the help of ultrasound, he inserted the end of a narrow 4-inch-long shunt into the baby's chest through an incision made in the mother's stomach.

The shunt remained in place for more than five months, continuously draining off the fluid, until two weeks before the birth, when it was no longer needed, Weiner said. The baby was then born by normal vaginal delivery.

When Weiner inserted the shunt in the 16th week, the fetus was still eight weeks from viability outside the womb "and certainly would have died if we hadn't intervened," he said. At that early stage, he said, the fetus was "about a foot long but very, very skinny," weighing only eight to 12 ounces.

Weiner and other doctors are still stumped by the cause of the excess fluid and are keeping the baby at the medical center for more testing.

The most common cause, he said, is a failure of the lymphatic system to take fluid that has leaked from the baby's tissues and return it to the blood vessels, "but we don't know if that was the cause with this baby."

“(It was very unusual for it to happen so early on. I’ve never had to shunt a baby this early.)”

— Carl Weiner,
Maryland's Center
for Advanced
Fetal Care

999
March 12, 1998

Representative Carmody and Members of the Committee:

My name is Denise Everhart. I appear today on the behalf of the Pro Choice Action League in opposition to House Resolution NO. 6010.

I would like to offer to this Committee some observations concerning this Resolution.

Lines 12 -22 on page one, ask the Attorney General to determine the constitutionality of abortion, an action that has been deemed legal by the Supreme court in *Roe v. Wade*, and subsequently upheld in its most basic sense in every subsequent decision. Why spend tax dollars to determine that which has already been done by the United States Supreme Court?

The Resolution cites *West Virginia State Board of Education v. Barnette* on page 1, lines 23-27. The use of this citation is somewhat confusing if not misleading. In fact, this case was about whether school children could be forced to fully extend their right arms when saluting the flag during the pledge of allegiance. The controversy was based on a religious objection to the salute. The court noted that national unity should not be created through compulsion. It is ironic that in the *Barnette* decision, the court fervently sought to protect freedom of religion, yet in this Resolution one religious opinion of when life begins is set above all others. Those in favor of the Resolution should note the court's advice, "compulsion is no way to achieve national unity". People cannot be forced to believe in one single view of morality or religion.

Several arguments are made in lines 30-40 on page 1. First, the resolution asserts that medical and scientific evidence increasingly acknowledge and affirm that fetuses are persons. However, such is not the case. In fact, modern science disproves this assertion. "Dr. Dominick Purpura, Dean of Albert Einstein Medical School, has been studying human brain development since 1974. Dr. Purpura emphasizes that there are a minimum number of neurons and synaptic connections that are necessary before the qualities of

'humanness' and 'personhood' can be developed and that this capacity begins to occur in the last trimester. Thus, about twenty-eight to thirty weeks in utero is the minimal time for the beginning of this capacity. 'It cannot begin earlier' according to Dr. Purpura." (James W. Prescott, *The Humanist*, Sept./Oct. 1986). We must concede that medical experts can be found on both sides of the issue. Data is inconclusive as to when a fetus becomes a person. This issue will not be resolved today or perhaps ever. Personhood is not an issue of medical fact, but of culture, morals, and religion.

Secondly, lines 30-40 assert that a fetus is considered a person for purposes of Medicaid. This is misleading. No governmental assistance program distributes benefits to a fetus. A woman who is pregnant is allowed benefits under WIC, but those are for the health of the woman and the fetus. It is in the state's interest to provide preventative assistance and ultimately reduce the likelihood of a child being born unhealthy and in need of costly care. Benefits are provided to help insure a normal pregnancy and healthy baby, not because the fetus is recognized as a person.

The third argument made in lines 30-40 is that a fetus is treated as a separate patient in modern medicine. Doctors vary in how they refer to the fetus. However, no doctor prepares a separate chart for the fetus; it is always included in the mother's chart. And certainly, no doctor bills the fetus for prenatal care. The final argument in lines 30-40 is that we can chart a fetus's growth from conception through birth. True. However, charting growth does not equate to defining personhood.

Lines 41-43 of page one continuing through line 5 of page two, quote *Roe v. Wade* which states that "if... personhood can be established, ...the fetus' right to life is guaranteed..." The concept of fetal personhood has not in fact been established. Medical and scientific evidence can better assess fetal viability, a different concept than personhood. But, according to *Roe*, the government may not interfere with the woman's fundamental right of privacy in her decision to abort prior to the third trimester which is already regulated.

Lines 6-9 on page two cite K.S.A. 22-4009(b), which requires the postponement of execution of a pregnant convict as a statutory recognition of fetal personhood. In reality, it merely establishes the state as more humane. It allows for the birth of a child before the execution of its mother. In fact, in most instances, the killing of a pregnant woman does not result in criminal homicide of two persons. The fetus must be born alive and die shortly after to be considered a homicide victim. *Jeffrey I. Lenlow, 9 Am. J. L. and Med. 1,4, 1983*. In recent years, state legislatures have enacted specific statutes to protect fetuses in cases of vehicular homicide. The law does not recognize a fetus as a human being or person thus the need for special statutes.

Lines 10-16 on page 2 uses a Kansas case, *Smith v. Deppish*, to assert the claim that human offspring are created when DNA is passed at fertilization. However, *Deppish* was a criminal case that addressed the right to a speedy trial. The court also noted that some DNA could be submitted as evidence. Just because DNA is passed at fertilization and can be used to establish identity does not determine when the fetus with its separate DNA becomes a person. Again, that issue cannot be so easily concluded.

Lines 17-21 on page 2 of the Resolution misleads you as to the meaning of *Levy v. Louisiana*. In *Levy*, the court held that illegitimate children could sue for wrongful death. The common law once prohibited illegitimate children from pursuing legal actions against their parents. The *Levy* case held that illegitimate children were "persons" within the meaning of the Fourteenth amendment and were entitled to its protections and guarantees. *Levy* made no mention of the fetus as a person.

Lines 36-41 quote the *West Virginia State Board of Education v. Barnette*. As discussed earlier, the quote actually refers to holding religion outside of the reach of politics. Applied to the issue at hand, the court or legislature has no business determining religious questions, such as whether a fetus is a person. Religious questions such as when life begins, should not be decided in Congress, or in the legislature.

Page 3, lines 3-6 is an attempt to justify the Resolution by asserting that the abortion issue has never been determined in Kansas courts except in *City of Wichita v. Tilson*, 253 Kan 285. The issue was resolved in *Tilson*. That case involved a protester who was arrested for blocking access to a clinic. The defense argued that "innocent lives were being killed inside" which made her breaking the law a necessity. The court ruled that necessity is not a defense to trespass and noted that abortion is legal. The court supported the decision made in *Roe v. Wade*, and denied *Tilson* the necessity defense.

Lines 7-14 on page 3 call for the passage of this Resolution since there is "undeniable medical, biological and scientific facts" that support the notion that fetuses have a right to life. According to Marjorie Reilly Maguire, in "Symbiosis, Biology, and Personalization", "personhood is a concept that is incapable of empirical proof. It is not a biological judgment. It is a value judgment our society makes about a being...there is no biological moment in human development, from the separate sperm and ovum to the octogenarian, that automatically signals the beginning of personhood."(*Abortion rights and Fetal Personhood*, ed. EDD Doerr & James Prescott).

Clearly, if nothing else, you can see there is no easy answer to this issue. Compulsion is not the answer. People cannot be forced to believe in one view of morality or religion. Please reject this House Resolution.

Thank you.

Handwritten initials "A10" in the top left corner.

TESTIMONY IN OPPOSITION TO HR 6010
HOUSE JUDICIARY COMMITTEE
MARCH 11, 1998

By Carla Mahany, Associate Director, ACLU of Kansas and Western Missouri
and President of the Kansas Choice Alliance

This resolution suggests that Roe's refusal to recognize a fetus as a person under the Fourteenth Amendment of the U.S. Constitution rests on the "state of medical technology" existing at the time of the decision. This is false. Rather, the Court reached this conclusion solely by examining (1) the language of the Constitution and (2) the treatment of abortion during periods of history following the adoption of the Constitution.

As to the first point, the Court first noted that, in defining "citizens," the Constitution speaks of "persons born or naturalized in the United States." 410 U.S. 113, 157 (1973). In nearly all other instances in which the Constitution refers to the word "person," the Court noted, "the use of the word is such that it has application only postnatally." Id. (citing numerous provisions). As to the second point, the Court noted that "throughout the major portion of the 19th century prevailing legal abortion practices were far freer than they are today," implying that "person" under the Constitution was not intended to apply to the unborn. Id. at 158. Thus, the Court concluded that "the word 'person,' as used in the *Fourteenth Amendment*, does not include the unborn." Id. (emphasis added).

What the Court did look to current medical knowledge for was to determine at what point the state's interests in women's health and the potentiality of life become compelling enough to permit restrictions on abortion. In determining that certain restrictions are permissible, however, the Court made it clear that the woman's health and safety always take precedence over the fetus, regardless of the state of pregnancy. For example, the Court found that at the point of viability, the state's interest in potential life¹ becomes sufficiently compelling to override the woman's decision to terminate her pregnancy. But the Court nevertheless held that abortions must be permitted *even after viability* if necessary to preserve the woman's life or health. Id. 163-64.

If the theories in HR 6010 were correct, the Supreme Court in 1992 would not have reaffirmed, as it did, the "essential holding" of Roe v. Wade. Planned Parenthood v. Casey, 505 U.S. 833, 120 L. Ed. 2d 674, 694 (1992). In Casey, the Court retained viability as the earliest point at which the state may ban abortions, and it reaffirmed Roe's requirement that abortions be permitted even after viability in "pregnancies which endanger a woman's life or health." Id.

In conclusion, it would be simply impossible to vest a fetus with the full rights of a person without simultaneously divesting the pregnant woman of her own rights. For example, medical treatment designed to save a woman's life (chemotherapy, for example) may be harmful or fatal to a fetus. Are the sponsors of HR 6010 suggesting we demote women from full constitutional status in order to recognize fetuses as such? This simply illustrates why pregnant women and their fetuses should be recognized legally as the unit they are, rather than pitted against one another as legal adversaries.

¹ It is interesting to note that the Court ruled in terms of the *state's* interests vs. those of the pregnant woman, rather than recognizing any rights on the part of the fetus itself. Even with respect to viable fetuses, the Court found that restrictions on abortion were permitted in light of the "*State's important and legitimate interest in potential life*," id. at 163, not because the fetus gained legal stature as a result of its viability.

House Judiciary
3-11-98
Attachment 10