

MINUTES OF THE HOUSE FEDERAL & STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairperson Doug Mays at 1:35 p.m. on February 19, 2001 in Room 313-S of the Capitol.

All members were present except: Representative Joe McLeland, Excused

Committee staff present: Theresa M. Kiernan, Revisor of Statutes
Russell Mills, Legislative Research Department
Shelia Pearman, Committee Secretary

Conferees appearing before the committee:

Representative John Toplikar, co-sponsor
Representative Bruce Larkin, co-sponsor
Senator Kay O'Connor
Patrick Lehman, Kansas Fire Service Alliance
Nellie Gray, President March For Life, Washington DC
Dr. Ronald Ferris, Wichita Physician
Elmer Feldkamp, Right to Life
Karyl Graves, Wee Life, Inc.
Barbara Duke, American Association of University Women
Carla Mahany, Planned Parenthood of KS & Mid MO
Sharon Lockhart, Kansas National Organization for Women

Others attending: See attached list

Chairman Mays opened the hearing on SB 71 - State capitol area; guidelines and procedures for memorials on grounds, memorial for Kansas firefighters.

Mr. Lehman noted today was Fire Day at the Capitol. A large group of firefighters are in the audience. Similar legislation has been introduced during the last three sessions. **SB 71** would authorization for the construction of a memorial in honor of Kansas firefighters but requires this memorial follow new procedures and standards for reviewing proposals to construct or place permanent memorials on the State Capitol plaza area. The bill would create a nine-member Kansas Firefighters Memorial Advisory Committee composed of representatives of the groups stated in the Supplemental Note for **SB 71**. There is no fiscal impact to any agency inasmuch as the memorial would be designed, constructed and maintained by donations and/or grants.

No other individuals appeared regarding this bill. The hearing on SB 71 was closed.

Representative Edmonds moved that Committee recommend SB 71 favorable for passage. Representative Benlon seconded the motion. Motion passed.

The hearing on HR 6007 - Attorney general directed to determine constitutionality and to establish that upon conception there is life - was opened.

Representative Toplikar sponsored this resolution to determine the current abortion laws are in conflict with the Kansas constitution. The inalienable right to life is defined as a right that can never be taken away. (Attachment #1)

Representative Larkin stated this resolution would require the question of when life begins to be addressed by the courts. (Attachment #2)

Senator O'Connor noted the discrepancy in the United States and Kansas constitutions would be addressed by the court case stemming from this resolution. (Attachment #3)

Ms. Gray declared that if a society denies right to life for one individual, they deny all the right. She expressed that science has demonstrated that life begins at fertilization, not implantation and not viability of the child. Diminishing the sanctity of pre-born human life, in turn, has already diminished the sanctity

of other human life and inflicted us with euthanasia, assisted suicide, teen suicide, school shootings, drive-by shootings and more. She stated we have endured 28 years of destruction since *Roe v. Wade* decriminalized abortion more than 40,000,000 pre-born children have been killed. (Attachment #4)

Dr. Ferris stated it is a demonstrable scientific fact when the 23 chromosomes carried by a sperm encounter the 23 chromosomes carried by the ovum, all of the information necessary and sufficient to produce all of the characteristics of a new and unique human being are organized into one place and structure we call the human genome. (Attachment #5) He urged the committee to support **HR 6007**.

Mr. Feldkamp request the committee pass **HR 6007** to permit the courts the opportunity to consider the fact that an individual human life exists from fertilization. (Attachment #6) He also discussed the written testimony from Charles E. Rice, Notre Dame University Professor of Law. (Attachment #7) Mr. Rice noted this would not only affirm the rights of the unborn child under Kansas law, but also the reserved power of the State of Kansas to define, as a matter of state law, the meaning and scope of the Kansas Bill of Rights.

Ms. Graves expressed her support of **HR 6007** in that biological and medical facts provide that the life in the womb is the same individual from conception to birth as shown with DNA profiling and fingerprints. (Attachment #8) She stated because the pre-born children cannot speak for themselves, it is up to us to carry this message for them.

Ms. Duke opposed **HR 6007** because it attempts to impose particular religious views on others threatening not just women's reproductive freedom but the religious freedom that is America's founding value. (Attachment #9) The moment of fertilization is speculative therefore the moment of birth is the historical notation of life's beginning.

Ms. Mahany opposed **HR 6007** citing prior year's testimony by Dr. Charles W. Baughman and Dr. John Swomley. She noted the U.S. Constitution provides that states may expand rights but may not restrict rights. She commented five states currently have legislative declarations supporting the right of a woman to choose abortion. (Attachment #10) These states grant stronger, not weaker, rights than federal constitutional law. She also noted the U.S. Supreme Court struck down Nebraska's so-called "partial-birth" abortion law last year.

Ms. Lockhart stated the Kansas Legislature is losing sight of the "right to life, liberty and the pursuit of happiness" presume one to have sovereignty over one's own body and the freedom to make choices as to the course of one's own life. (Attachment #11)

The hearing on HR 6007 was closed.

The committee meeting adjourned at 2:40 p.m. The next scheduled meeting is February 20, 2001.

HOUSE FEDERAL & STATE AFFAIRS COMMITTEE

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DATE: 2/19/01

NAME	REPRESENTING
Carla Mahany	PPKM
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Don Smith	KGFFA
CRAIG DUKE	KANSAS CITY F.D.
LARRY SARAGUSA	" " "
MIKE WILSON	" " "
BOB NOWAK	" " "
BILL BONFIELD	" " "
MARK McLaughley	Wellington Fire Dept
Don Thompson	CONWAY SPRINGS F.D.
Bill Hellard	Wellington F.D.
John M. Lloyd	Wellington F.D.
Rick Volauka	Caldwell Fire
Larry Wolfe	Caldwell F.D.
LARRY D. HOWARD	EMPORIA F.D.
Curtis Wilson	Winfield Fire Dept.
MARK DAVIS	Winfield Fire Dept
ROGER RIFE	HAYS FIRE DEPT
Jim Rubens	Parsons Fire Dept - K.S.F.F.A.

HOUSE FEDERAL & STATE AFFAIRS COMMITTEE

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Chris Standa	KSFFA
Greg Standa	Sew Co.
John DeJulio	Olathe Fire Dept
Kevin Thomas	IAFF Local 2542
Ed Reschke	OLATHE FIRE
TODD HART	Olathe fire
MIKE BEATY	SHAWNEE F.D
Jim Vulhaver	SHAWNEE F.D.
Poy Simms	SHAWNEE F.D
Albert Hoeltgen	" "
Cheryl Helkhart	KS NOW
BILL K. Linn	Dover, KS
DOUG CROCKETT	KSFFA / MERRIAM F.D.
DAVID Gardner	MERRIAM FD
Robby White	Reno Co. F.D. #3 / Hutch. Comm. College Fire
George Bentley	Olathe Fire Dept
Pan Thompson	KS FMO
Robert Frouzle	RBC

HOUSE FEDERAL & STATE AFFAIRS COMMITTEE

COMMITTEE GUEST LIST

DATE: 02-19-2001

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Tim Hay	Parsons Fire
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Bill Scott	Pittsburg F.D.
LARRY GARCIA	Wichita Fire Dept
JOHN WASHBURN	AUBURN FD
Forrest Goodwin	Oakansas City FD
LARRY GORDAN	" " "
Dawn Wilson	" " "
FRANK PARTHARY	ST MARYS FD
Leslie Gordon	ST MARYS FD
Ed Mason	Arkansas City FD
Deborah Keating	St. Marys F.D.
Sue Fox	SCAFF Soc (Firefighters)
Joseph Schweiser	Cutler Top. F.D.
Jim Harper	Wellsville F.D.
Dennis Nowatzke	Ottawa FD / FEAK

STATE OF KANSAS
HOUSE OF REPRESENTATIVES

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



STATE CAPITOL
TOPEKA, KS 66612
1-800-432-3924

JOHN M. TOPLIKAR

HR 6007

Mr. Chairman and members of the committee. I am here today to sponsor and testify in support of HR 6007, of which the main purpose is to decide whether or not our current abortion laws are in conflict with our Kansas Constitution. In Article I of the Bill of Rights the Constitution specifically guarantees the inalienable natural right to life. "Inalienable" is defined in Black's Law Dictionary as a right so fundamental that it can never be taken away.

I believe, our statutes have illegally superseded our Constitution and I ask your committee to *help* bring action in court to determine if this is so.

Please pass HR 6007 favorably, so that we can have this case heard in court to determine what is meant by the phrase "an inalienable right to life". Thank You.

House Fed. &
State Affairs
Date 2/19/2001
Attachment No. 1
Page 1 of 1

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



TOPEKA

HOUSE OF
REPRESENTATIVES

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AGRICULTURE & NATURAL
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Testimony
before the
House Federal and State Affairs Committee
regarding
HR 6007
on
February 19, 2001

Chairman Mays and members of the Committee. Thank you for allowing my testimony of HR 6007.

The concept behind HR 6007 is to have the courts determine the fundamental issue in the abortion debate, and that is "When does life begin?" In the years that I have served in the Legislature, there have been many attempts to change the laws in Kansas relating to abortion. Most of these attempts have failed or have been ineffective due to the interpretation of the courts. It is time that we ask the courts to resolve this fundamental issue. The courts are responsible for the current quagmire we encounter and it is time the courts are forced to rule on this, the most fundamental issue of the debate. "When does life begin?"

None of us know the outcome of this challenge, but hopefully, it will give us some guidance for the future.

House Fed. &
State Affairs
Date 2/19/2001
Attachment No. 2
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TOPEKA

KAY O'CONNOR
 SENATE DISTRICT 9
 LENEXA, DESOTO, EDGERTON
 AND NORTHWESTERN OLATHE

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COMMITTEE ASSIGNMENTS

VICE CHAIR: ELECTIONS AND
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 MEMBER: FEDERAL AND STATE AFFAIRS
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TO: House Federal and State Affairs Committee

FROM: Senator Kay O'Connor

RE: Testimony on HR 6007

Mister Chairman and members of the committee:

Thank you for the opportunity to testify in favor of HR 6007.

After five years of hearings and a couple of votes on the floor, I do hope that this is the year of success. The unborn babies need this resolution. The State of Kansas needs this resolution. Our wonderful country needs this resolution.

When Roe v. Wade was decided, the members of the Supreme Court even then wrote that the issue of when life begins, legally, was not discussed. It was agreed that someday the issue would be discussed and decided. They could not have known how long this would really take.

There are some who oppose this remedy because they fear that the ruling of the Kansas Attorney General or the Kansas Supreme Court may not agree with their personal position on this very contentious issue.

I maintain that it does not matter. When either side of the issue "loses" the decision (and there will be a loser), the opposite side will appeal. Their appeal will be based on the discrepancy between the US and Kansas constitutions. This sends it to the US Supreme Court where it belongs. The US Supreme Court needs to finish Roe v. Wade!

I also want to ask that each of you please take the time to actually read this well written resolution. The "Whereas's" are very informative and give much support for the need of this resolution.

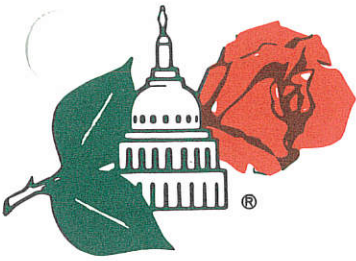
Please give your sincere attention to HR 6007 and pass it favorably out of this committee. It is the right thing to do.

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 State Affairs

Date 2/19/2001

Attachment No. 3

Page 1 of 1



March for Life

Education & Defense Fund

P. O. Box 90300
Washington, DC 20090

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February 19, 2001

**Testimony of
Nellie J. Gray
President, MARCH FOR LIFE Education and Defense Fund
before the
Kansas House of Representatives Federal and State Affairs Committee
in favor of
House Resolution 6007 — “The Human Life Resolution”**

Mr. Chairman, and Members of the Committee,

My name is Nellie Gray, and, as President of the *MARCH FOR LIFE Education and Defense Fund*, Washington, DC, I am pleased to appear before your Committee today and speak in favor of Kansas House Resolution 6007, “The Human Life Resolution.”

I shall comment: (1) about the problem faced by Americans and our society, which is the basis of H.R. 6007, (2) about the solution which we can anticipate by enactment and implementation of H.R. 6007, and (3) about some past experiences of our country which argue in favor of early implementation of H.R. 6007.

I was very pleased that the Committee has set forth the basic principles governing any society in the logical construction and message of the “Whereas clauses” of H.R. 6007. You begin with the basic provision in your Kansas Bill of Rights, and I shall focus on two provisions: inalienable right to life and equal right to life. America today faces the untenable problem that, despite our devotion to protecting human rights worldwide, America denies the inalienable right to life to some innocent and defenseless born and preborn human beings.

My comments about the “inalienable right to life” can be pointed and brief. Almost thirty years ago when the issue of abortion — intentionally killing a defenseless innocent preborn human — began to be discussed openly in public, the question most often asked was: “When does an individual human life begin?” At that time, I put it this way to a doctor: “I know that a baby appears to be about the same just before and after the umbilical cord is cut, so when does a baby become a baby?” The doctor answered: “At fertilization.” And, since then, medical and technical advances have progressed to the point where fertilization can be viewed.

The simple fact that a human father’s sperm fertilizes a human mother’s ovum and a unique preborn human being comes into existence is so basic that it is a matter of common knowledge and the subject of popular literature and TV programs. Anyone who denies the fact or argues, for instance that a human life begins at implantation or viability or birth or after birth, cannot be taken seriously, and must be viewed as indulging in intellectual dishonesty or culpable ignorance.

The right to life is inalienable – meaning that each human is endowed and possessed at fertilization with an innate right to life not given by government and not possessed by any other human being or by the state.

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Attachment No. 4

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BOARD OF DIRECTORS

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Therefore, the government has the fundamental and profound duty to protect the inalienable right to life of each human being in existence at fertilization and has no authority or justification to deny the right to life of an innocent born or preborn human being or authorize any other human, organization or governmental official to deny the right to life. That is, there is no justification under the law of God or man intentionally to kill an innocent human being. Thus, it follows that the right to life of each born and preborn human is equal to the right to life of each other born and preborn human in existence at fertilization. And, it is this inalienable "equal right to life" principle which is under persistent and brutal attack in our country today.

EQUAL RIGHT TO LIFE

The inalienable "equal right to life" principle means only that no one may intentionally kill an innocent born or preborn human being. This is not a surprising or new concept for America. It is so fundamental that it is embedded in our founding documents. And, the Gettysburg Address begins with the assertion that the American republic was founded on a universal proposition that all men are created equal. Nevertheless, our country already over the years has faced the problem of denying an equal right to life to all men, and suffered bitterly. If we do not learn from that history, we are doomed to relive the errors and suffer even more bitterly.

How has the equal right to life been denied and violated in the experience of America. It was done by simple definition. In the apportionment provision of our Constitution, slaves were defined as three-fifths man and two-fifths property. Federalist Paper No. 54 explains the need to recognize this dual character of slaves in order to reach a compromise for purposes of counting property for taxation and people for the census. This compromise was meant to solve problems, which we know now only created more problems and heaped shame on our beloved country. Our American experience also includes coping with the cruelty of Hitler's Final Solution, by which a human defined as non-Aryan was denied an equal right to life and victimized by slavery and murder. Our government, as a World War II victor, sat in judgment at the Nuremberg Trials and applied the timeless equal right to life principle to Nazis accused of crimes against humanity. Convicted Nazis were held individually responsible for participating in crimes against humanity, whether or not they acted on orders of superiors. Germany today suffers the shame of Nazi violation of human rights which occurred half a century ago. Strong, greedy, selfish humans victimize weak defenseless humans for power and ill-gotten gains.

If we do not learn from history, we are doomed to relive the errors and suffer the shame even more bitterly. Despite America's errors with slavery and suffering during WWII, by the early 1970s, the feminists' agenda included the intentional killing of preborn human children. The Supreme Court heard arguments and re-heard arguments, which focused on the inalienable and equal right to life. It was a surprise when the Court said in *Roe v. Wade* that it could not decide when a human life begins. Rather than opting in favor of life, the Court found an un-enumerated "right" of privacy so broad as to include a woman and a doctor choosing to terminate a pregnancy. The January 22, 1973 *Roe v. Wade* error was renewed in the June 28, 2000 *Stenberg v. Carhart* decision by which the Court denied Nebraska's ban on partial-birth abortion. The Court described in gruesome details many abortion procedures, and included specific language about dismemberment, collapsing fetal skull, and free floating fetal head that can be difficult for a physician to grasp. For the Committee's information, I have attached comments on the *Stenberg v. Carhart* decision, and I have a few copies of the decision for the convenience of the Committee.

The Court mentions that the *Stenberg v. Carhart* decision may appear to be callous and the procedures gruesome, and then denies the ban on abortion primarily for a woman's right of privacy and health. These untenable reasons call for a response, because they are insufficient to sustain the act of intentionally killing a preborn with impunity:

- right of privacy – intentionally killing an innocent human is never a private act but an act against society.
- health – there is no malady for which the standard treatment is kill a preborn.
- woman's right to control her own body – this argument bring into play the "pound of flesh" rule; namely that a woman may control her own body but may not abuse her innocent defenseless preborn's body.
- right of self defense – this right does not apply against an innocent defenseless preborn who is never an

unjust aggressor.

- preborn child is sick and will die – sickness and death are part of each human’s life cycle, and does not justify intentionally killing an innocent human.

These reasons and responses are examples of untenable excuses put forth by abortionists for their acts of abortion. And, there are other reasons, such as poverty, imperfections, rape, incest, inconvenience and choice. IN SUMMARY, it must be concluded that whatever is the problem, each human and America as a whole is great enough to find a solution, no matter how onerous, other than violence, abuse, and murder. The basic principle governing a just society is an equal right to life for both a pregnant mother and her preborn child. If the law does not protect the right to life of each born and preborn human, then no one’s right to life is protected, because the stronger will be able to define away the right to life of any one or class of humans.

WHY DOES ABORTION EVIL CONTINUE IN AMERICA?

As stated above, there is no justification for intentionally killing an innocent human. Then, why are we gathered here today at this hearing? . . . Abortionists continue the killing. All that it takes for evil to triumph is for people of good will to be silenced. And, why are many Americans silenced about the unspeakable evil of abortion? Because, abortionists have fashioned a very persuasive double-sided cover-up of the evils of abortion. The cover-up is: (1) double-speak language to try to make the evil of abortion appear to be good, highly beneficial, necessary and respectable, and (2) disposal or marketing of the fetal bodies so no one will see the pitiful results of abortionists intentionally killing a preborn human being. So, the evil results of abortion are out-of-sight, which is similar to slave owners keeping their evil deeds to the slave in the fields, and Nazis keeping their evil deeds to non-Aryans behind the camp walls — all out-of-sight and out-of-mind.

But, now, every American really does know about the intentional killing of preborns. Abortion is talked about in homes, schools, political rallies, talk shows, entertainment, churches, media, Congress, and our Supreme Court. But, still it is out of sight and out of mind.

Some courageous prolife workers begin to peel off the cover-up, and accurately describe and show the evil of abortion in America. And, people finally did see and write about the slave mistreated in the fields and about the victims of Nazi atrocities. When allied troops found Nazi death camps, they made villagers come and look at the horror. So, one day America shall look at abortionists’ misdeeds which amount to violence and sickening murder today.

Our prolife work is to educate about the life principles, speak and act in unity in accord with the life principles, and take the respectability out of the intentional killing of our preborn brothers and sisters. No one may live side-by-side with unspeakable evil. Prolife work can be done peacefully and effectively with our tools of truth, prayer, charity and hope. The abortionists’ double cover-up can be lifted, so America can heal from the grievous wounds of 28 years of *Roe v. Wade* — all for love of God, Neighbor and Country.

LEGACY OF EVIL AND DESTRUCTION

Because we are still living in the evil and destruction flowing from *Roe v. Wade*, we cannot see the full dimension of the short-term and long-term fall-out of the evil of America participating in the intentional killing and destruction of generations of human beings. Nevertheless, we can already see some of the dimensions of the evil, and we can call on past experiences to perceive the tragedy facing America if citizens and public officials of good will do not try to stop the murder of preborn humans right away.

In *Roe v. Wade* and again in *Stenberg v. Carhart*, the Court speaks about a “right” of a woman and her doctor to choose to terminate a pregnancy – meaning intentionally to kill a pregnant mother’s preborn child. Such action, of course, can never be a right guaranteed by our democratic society, but only a violation of the fundamental and universal human right to life. Our country told slave owners that they did not have a right to hold slaves, and our country at the Nuremberg Trials told the world that officials did not have a right to commit crimes against humanity. *Roe v. Wade* did not make abortion “legal; it only decriminalized the evil act for now, as we learn from the principles of the Nuremberg Trials. (I am attaching a summary of the

Nuremberg Trials principles for the convenience of the Committee.) So, also, one day soon, abortionists will be told that there is no right to deny the inalienable and equal right to life of anyone, and the abortion scars and destruction can be healed.

Abortion destruction scars individual human beings and our society. First and foremost, it is immoral for our land of the free to tolerate the intentional killing of even one innocent born and preborn human being because it violates and diminishes respect for the sanctity of human life endowed by Our Creator. Diminishing the sanctity of preborn human life, in turn, has already diminished the sanctity of other human life and inflicted us with euthanasia, assisted suicide, teen suicide, school shootings, drive-by shootings and more. Diminishing the sanctity of preborn human life fractures natural relationships and creates hostility, for instance, of mother against preborn child, and disruption in stable family relationships and in our society as a whole.

This immoral and destructive behavior is measurable and perceptible in day-to-day living conditions. During 28 years of *Roe v. Wade*, it is estimated that our country has suffered the intentional killing of more than 40,000,000 innocent preborn children and trauma to their mothers and fathers. Citizens who intentionally kill their young undercuts their own society, and America now faces problems from a skewed population, which affects, for instance, our social security system, immigration policy, and labor and skill shortages.

H.R. 6007 POSES RIGHT AND PROPER SOLUTION TO A GRIEVOUS PROBLEM

Mr. Chairman and Members of the Committee, I have stated what I view to be a grievous problem in my beloved country and you have addressed the problem forthrightly. I am pleased to testify today, because you have designed and presented House Resolution 6007, which provides a substantive plan and course of action for substantive relief. You have properly focused on the basic inalienable and equal right to life protections in the Kansas Bill of Rights to stop – repeat to stop – the intentional killing of innocent human beings and to stop the flow of public tax dollars for this violence against each human being’s equal right to life.

My favorable impression of H.R. 6007 is its focus on protection because a human being is a human being is a human being. There have been many efforts over the past 28 years which focus on regulating abortion rather than stopping the evil act. I understand the efforts of trying to do whatever is possible to at least reduce the incidence of abortion. However, these efforts at regulating rather than proscribing these evil abortion acts, may, in the long run, only reinforce the error of *Roe v. Wade*, because regulation is an admission that doctors and women may, with impunity, tolerate and even participate in the intentionally killing of some preborns. If we are to reverse *Roe v. Wade* and *Stenberg v. Carhart*, it is necessary to educate officials and the public that the intentional killing of even one innocent human being is not acceptable and not tolerable.

Too often we hear that the abortion evil may go on longer than your life-time and mine. The proper response is: “Why?” Or, we may also hear a comment that we cannot stop abortion. The proper response is: “Why Not?” America must not leave even one preborn human child behind in the abortionists’ surgical or chemical waste. H.R. 6007 says that this Committee has seen an evil in our country and shall try to cure it.

Mr. Chairman and Members of the Committee, I strongly urge your favorable consideration of H.R. 6007, “The Human Life Resolution.”

Respectfully submitted,

Attachments:

- Comments on *Stenberg v. Carhart*
- Summary of Nuremberg Trials principles

House Fed. &

State Affairs

Date 2/19/2001

Attachment No. 4

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Abortion Is Decriminalized — It Can Never Be “Legal”

Abortion is a Crime Against Humanity — by the law of both God and Man

With abortion in America today, we see some of the gruesome history of the Nazi era repeating itself — the terrible slippery slope of denying one innocent person his basic human rights, and then finding oneself and a whole society in the pits of depravity. Let us look at the Principles of the Nuremberg Trials;

It is oft-heard that the Supreme Court "legalized" abortion by its infamous decisions of January 22, 1973. What has really happened is that the Supreme Court has declared in *Roe v. Wade* that, for now, punishment will not be administered under federal, state or local law for the crime against humanity of born human beings killing innocent preborn human beings.

The court is now in the anomalous position of *trying* to "legalize" an abomination. Further, the Court is in the anomalous position of running counter to history, when our own Government has stated and acted on the principle that "Crimes Against Humanity" cannot be made legal by any individual or governmental power.

We look to history for some standards by which a government, elected and appointed official, individual, and organization can be tested. For instance, there are standards set out by the Tribunal sitting in Nuremberg in 1945 in judgment of our foreign enemies. Surely, the same level of standards should apply to domestic organizations. The Charter of that Tribunal, in setting forth the jurisdiction and general principles, provides in Article 6 that:

The following acts, or any of them, are crimes coming within the jurisdiction of the Tribunal for which there shall be individual responsibility:

* * *

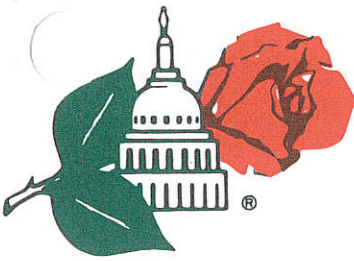
(c) CRIMES AGAINST HUMANITY: namely, murder, against any civilian population, . . . whether

or not in violation of domestic law of the country where perpetrated.

Leaders, organizers, instigators, and accomplices participating in the formulation or execution of a Common Plan or Conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any persons in execution of such plan.

Article 7 provides that an official position shall not be considered as freeing anyone from responsibility or mitigating punishment. Article 8 provides that the fact that an individual acted pursuant to order of his Government or of a superior shall not free him from responsibility. Article 9 and 10 provide that an organization can be declared to be criminal, and individuals may be tried for membership in such organizations.

It is interesting to note that our Government, sitting in judgment of foreign enemies at the Nuremberg trials, held those enemies to a standard of humaneness above and beyond what was "legal." Similarly, merely because abortion has been said to be "legal" in our country today, does not make the act of abortion less inhumane or less a crime against humanity. Further, any government, elected or appointed official, individual, or organization which supports abortion, even though abortion is decriminalized, is subject to a serious question of accountability, now or later, for crimes against humanity.



March for Life

Education & Defense Fund

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BIOGRAPHY SUMMARY — 2001

Miss Nellie J. Gray
President

Born in Big Spring, Texas in 1924.

Attended public elementary and high school in Big Spring, Texas. Graduated with honors in 1940.

After period of work as a secretary and the Freshman year in college, served during World War II, 1944 - 1946, as a Corporal in the Women's Army Corps.

With the G.I. Bill of Rights, graduated from Texas State College for Women (now Texas Women's University) with a degree of B.S. in Business Administration (1948) and M.A. in Economics (1949).

For 28 years of Federal employment, served at Department of State and Department of Labor.

During that period, also attended Georgetown University Law Center, and in 1959 was admitted to practice law in the District of Columbia. In 1963, was admitted to practice law before the Supreme Court.

In June, 1973, retired from Federal service for full-time volunteer work on prolife interests.

February 1979, His Holiness Pope John Paul II conferred the *Pro Ecclesia et Pontifice*, which was presented in Washington, DC by His Eminence William Cardinal Baum.

For the past 28 years, volunteered for work on the many and varied March for Life activities.

She serves as President, *MARCH FOR LIFE Education and Defense Fund* – a non-profit, non-partisan, non-sectarian corporation guided by the *Life Principles*. The goal of *March for Life* efforts is to assure Constitutional protection for the unalienable and paramount right to life of each innocent born and preborn human being in existence at fertilization, with equal care for both a pregnant mother and her preborn child – No Exception! No Compromise!

March for Life activity is most visible each January 22 – the anniversary date of the Supreme Court's infamous abortion decision, *Roe v. Wade*.

The *MARCH FOR LIFE Fund* sponsors an annual rally and march in Washington, DC by which thousands of prolife Americans assemble peacefully to educate our Federal government – the President, Congress and Supreme Court – about the humanity of each preborn child in existence at fertilization. The 28th annual Convention, *March for Life Rally*, "*Say It With Roses*" Campaign, Student Contests and *Rose Dinner*, held January 22, 2001 in our Nation's Cap-

ital, focused on rights and responsibilities of mother, father and child – namely, that the right to life guaranteed by our Constitution is vested in each human at **fertilization** – No Exception! No Compromise!

The *MARCH FOR LIFE Fund* works throughout the year educating Americans about our privilege and duty to remove from our country the absolute evil of abortion. No one – not the President, the Congress, not the Court, not a doctor, lawyer, clergyman, parent, teacher, police, no one operating in the name of "right to life" – no one has capacity under the law of God or man intentionally to kill even one of our innocent born or preborn brothers or sisters in existence at fertilization. No one has capacity to authorize anyone else to commit murder with impunity.

The *MARCH FOR LIFE Fund* publishes an *Annual Report* and statements on prolife issues. Officers are available for speaking engagements. The *Fund* sponsors an annual Student Contest for essay, poetry, and poster, and the student winners receive their awards at the *Rose Dinner* each January 22.

* * * * *

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THE PURPOSES OF THE MARCH FOR LIFE EDUCATION AND DEFENSE FUND ARE EMBODIED IN THE "LIFE PRINCIPLES"



March for Life

Education & Defense Fund

P. O. Box 1300
Washington, D.C. 20090

TEL: 202 - LIFE - 377
FAX: 202 - 543 - 8202

Annex to Report No. 00 - 01
July 2000

Stenberg (Attorney General of Nebraska) v. Carhart (abortionist)

Evil of Biblical Proportions Strikes at Our People and Our Society's Foundation

Dear Marcher for Life,

Each prolife American must read this June 28 Supreme Court opinion and know for yourself the brazen error of our society's officials. The evil of carnage inflicts America. Feel in your head and heart that our prolife work for love of God, neighbor and country is top top top priority. To receive a copy of the opinion, please check the box on the enclosed card.

We at *March for Life Fund* received many inquiries about this opinion. We know that some of you feel that the Supreme Court knocked the breath out of you, because it is inconceivable that the Court, or any American, cannot be persuaded to ban the procedure of sucking the brains out of a preborn child. But, no one should have been surprised by the Court, because the law was flawed and our society suffers widespread immorality. We proliferators shall be energized to redouble our efforts.

Let us discuss a bit: **I.** The Court's *Carhart* Opinion, **II.** Comments on the Opinion, and **III.** Prolife Work Ahead.

I. The Court's *Carhart* Opinion.

A. The Court's 5-4 *Carhart* opinion, was delivered by Justice Breyer, with Justices Stevens, O'Connor, Souter and Ginsburg concurring. Chief Justice Rehnquist, and Justices Scalia, Kennedy and Thomas each filed a dissenting opinion.

1. The Court began: "We understand the controversial nature of the problem. Millions of Americans believe that life begins at conception and consequently that an abortion is akin to causing the death of an innocent child; they recoil at the thought of a law that would permit it. Other millions fear that a law that forbids abortion would condemn many American women to lives that lack dignity, depriving them of equal liberty and leading those with least resources to undergo illegal abortions with the attendant risks of death and suffering. Taking account of these virtually irreconcilable points of view, aware that constitutional law must govern a society whose different members sincerely hold directly opposing views, and considering the matter in light of the Constitution's guarantees of fundamental individual liberty, this Court . . . redetermined that the Constitution offers basic protection to the woman's right to choose. . . . We shall not revisit those legal principles. Rather we apply them to the circumstances of this case."

2. The Court set three established principles to decide *Carhart*: viability, undue burden, and health of the mother.

3. The Court cites provisions of the Nebraska law: "deliberately and intentionally delivering into the vagina a living unborn child . . . for the purpose of performing a procedure that the person . . . knows will kill the unborn child and does kill the unborn child."

4. The Nebraska law deals with only one procedure, so the Court describes and discusses various procedures in detail, such as dismembering the fetus, incidence of a 'free floating' fetal head, and differences in D&E, intact D&E, and D&X.

5. Justice Stevens concurs: "Although much ink is spilled today describing the gruesome nature of late-term abortion procedures, that rhetoric does not provide me a *reason* to believe that the procedure Nebraska here claims it seeks to ban [D&X] is more brutal, more gruesome or less respectful of 'potential life' than the equally gruesome procedure [D&E] Nebraska claims it still allows. . . . For the notion that either of these two equally gruesome procedures performed at this late stage of gestation is more akin to infanticide than the other, or that the State furthers any legitimate interest by banning one but not the other, is simply irrational."

6. Justice Ginsburg: "I write separately only to stress that amidst all the emotional uproar caused by an abortion case, we should not lose sight of the character of Nebraska's 'partial birth abortion' law. As the Court observes, this law does not save any fetus from destruction, for it targets only 'a *method* of performing abortion.' . . . Seventh Circuit Chief Judge Posner . . . observed . . . that the law prohibits the D&X procedure 'not because the procedure kills the fetus, not because it risks worse complications for the woman than alternative procedures would do, not because it is a crueler or more painful or more disgusting method of terminating a pregnancy.' . . . Rather, Chief Judge Posner commented, the law prohibits the procedure because the State legislators seek to chip away at the private choice shielded by *Roe v. Wade*."

7. The Court held Nebraska law unconstitutional for at least two reasons: (1) no exception for health of mother, and (2) undue burden on woman's ability to choose a D&E abortion, "thereby unduly burdening the right to choose abortion itself."

B. Four dissenting Justices showed revulsion, but never argued for personhood — only for state regulation of abortion.

1. Justice Kennedy cited the slim credentials of Dr. Carhart, and argued that *Casey* authorized State regulation of abortion.

2. Justice Scalia opined: "I cannot understand why those who *acknowledge* that . . . [t]he issue of abortion is one of the most contentious and controversial in contemporary American society, . . . persist in the belief that this Court, armed with neither constitutional text nor accepted tradition, can resolve that contention and controversy rather than be consumed by it. If only for the sake of its own preservation, the Court should return this matter to the people—where the Constitution, by its silence on the subject, left it—and let them decide. State by ~~State~~ House of Representatives practice should be allowed."

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SECRETARY-TREASURER

CATHERINE MCENTEE
New Jersey
609-822-3837

(over)

BOARD OF DIRECTORS

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Maryland
301-854-6361

II. Comments on *Carhart*

Opinion. A. There is nothing good to say about the *Carhart* opinion, because it is the Court's conclusion based on political, policy, and social preference, unguided by moral principles or common sense, and arrived at without proper legal analysis.

1. Without doubt, all Members of the Court knew they were judging life or death for preborn humans, but were culpably mute on sanctity of preborn human life. The Court rightly set forth only two views in the abortion controversy, *i.e.*, either for or against intentionally killing a preborn human — no "moderate" middle ground. (I.A.1, above.)

2. Dr. Carhart's attorney told the Court that abortion is fetal demise. The Court says pro-lifers view abortion as "akin to causing the death of an innocent child." (I.A.1) Make no mistake, abortion is not merely a death — abortion *kills* a preborn human who is always innocent. Thus, each abortion is homicide always done *intentionally* by one or more born humans — doctor, mother, father, parent, lawyer, judge, clergy, counselor, nurse, chauffeur to abortatoria, or someone paying for the killing. *Intent* assures that abortion is always murder, usually for hire. *Roe v. Wade* and *Carhart* cannot make murder/abortion legal, but have decriminalized it for now.

3. The Court equates intentionally killing a preborn human with "fundamental individual liberty." The Court, seeming impatient, *redetermined* that the Constitution protects a "woman's right to choose." (I.A.1) In a society governed by law, "liberty" and "privacy" may not protect the act of murder by mother, doctor or anyone in a home or hospital or anywhere. And, as we learn from Nuremberg Trials, a society which intentionally kills innocent humans shall be held accountable; persons/officials shall be held individually responsible, without a statute of limitations.

4. The Court said: "... Nebraska has not convinced us that a health exception is 'never necessary to preserve the health of women.'" Murder/abortion is an elective act, and there is no problem and no malady for which the care or cure is murder-a-preborn.

5. The Court wallows in gory details of a pregnant mother and "doctor" choosing to kill her preborn child for a mother's "health." (I.A.4) The Court shrugged. Thus, the Court permits a preborn to be killed at will with impunity. Nazi horrors were exposed *after WWII* at the Nuremberg Trials. Here, openly and notoriously in an official document, the Court callously embraces cruel intentional killing. (Also, I.A.5) No one may now feign ignorance that a preborn human exists, as *Roe v. Wade* tried to do. Stevens tries to obfuscate by using "potential life." (I.A.5)

6. Scalia (I.B.2) opined that the Constitution is silent on abortion, so people, State by State, should decide whether to kill preborns. He washed his hands of abortion to save the Court! But, our Constitution *is not* silent on right to life, general welfare, and commerce. And, "one state free—one state slave" failed. Abortion is evil in any State or in commerce.

7. Congress can stop abortion with legislation under our Constitution as now written. Also, the Court has overruled itself more than 200 times. It can do so again to protect born and preborn human life and our country.

B. The Evil in the *Carhart* Opinion is not that the Court struck Nebraska's law, because that law had an exception and would not save one preborn's life or stop one D&X murder. Ginsburg saw this (I.A.6). And, the Court highlighted the obvious contradiction that the law did not ban D&E killing. (Stevens, I.A.5)

The evil is that the Court boldly and feverishly embraces killing a preborn as if it were a "right" (II.A.3&4&5). Thus, the Court defines away the whole class of preborn humans. The Court and people do not seem to learn from past evils that if each human's life is not protected, then no one's life is protected. So, the Court puts America on the same evil road it took to try to justify masters owning slaves. America lives in shame of slavery. The Court adds murder/abortion to its shame.

How did feminists/abortionists become influential in our beloved America? They used their dark side, and hoisted high their golden calf of "empowerment, selfishness, intimidation, hate and violence" to deny God, tear down the family, and spread their evil at home and abroad. As with another golden calf, many people rush to worship the idol.

They scorn pro-lifers who try to rescue pregnant mothers and preborns, while critics now scorn clergy for allegedly not trying to rescue Hitler's victims 50 years ago.

C. What does 28 Years of this evil mean: It means that our great America suffers innocent blood and shame of some 40,000,000 murdered preborns and resulting immoral chaos in family, church, government, school, entertainment and media. It means economic and social strains of graying America and peculiar pressures for immigration. America must rid herself of abortion, lest she be warned to reform or suffer more than Sodom.

III. Pro-life Work Ahead.

The Court seems as callous and obstinate as the Pharaoh, and seems to expect pro-lifers to accept *Carhart*, thinking that our efforts are futile and we must wither away in apathy. **Now — not so fast!** Americans may not live side-by-side with murder of even one preborn. Nazi survivors admonish: "Never again, and Stand Up." Pro-life Americans hear and heed that compelling call because we cannot trust most of our public and private officials to stop the murdering.

Without apology, we accept our job to educate America: (A) about life principles, (B) that America must take "respectability" out of abortion, and (C) that each person, in unity, must *act* in accord with life principles.

A. We begin with basic life principles: (1) that each human's unalienable right to life endowed by Our Creator begins at fertilization, (2) that each born and preborn human being in existence at fertilization has an equal right to life, and (3) that when in doubt

as to whether a human life exists, Focus, Focus, Focus on life at fertilization. It is equally as heinous intentionally to kill a tiny one cell preborn as a larger preborn. Thus, there is no justification for a person or the State intentionally to kill an innocent born or preborn human in existence at fertilization — No Exception! No Compromise!

B. Prolifers take respectability out of abortion with life principles. First, to overcome feminists/abortionists' distortions, we tell the truth: *e.g.*, abortion is murder, it is never legal, it is never health care for mother or preborn, a pregnant mother must never take her preborn into an abortatorium, and doctors must provide equal care for both a pregnant mother and her preborn. Prolifers, aware of pressures on a pregnant mother to choose to kill her preborn, provide free help for a mother to shun evil and choose life and peace.

And, *second, we take respectability out of abortion* by reminding America that those who commit, aid, or tolerate murder/abortion may never be role models and are disqualified for honors and public office, no matter how "nice" and well groomed they may be.

C. However, some people operating in the name of right to life give only lip-service to life principles and *act* by making exceptions, *e.g.*, life of the mother, rape, incest. Think! Who will kill a preborn under the exceptions? A pro-life doctor? In a pro-life facility? No one, including people operating in the name of right to life, may negotiate away the right to life of another born or preborn human.

The challenge for pro-life America is to become *unified to act in accord with basic life principles*, so that our efforts may not be divided and weakened by, for instance, someone's partisan politics or personal preference for untenable states' rights or even one exception. In our effort to get *something* for the babies, it must do no harm. Note well: pro-lifers may take small steps toward stopping abortion in America, as long as each step makes a strong building stone in accord with life principles. Otherwise, as we have experienced since *Roe v. Wade*, any unprincipled steps suck us into the quicksand of the feminists/abortionists evil agenda, and produce tragic, frustrating and tiring finales, such as *Carhart*. We have the numbers, so we must be unified on life principles, for love of God, country, and born and preborn neighbors, including feminists/abortionists.

Dear Marchers for Life, the Court spurs us on with its infamous *Carhart* decision. Our tools still are: Truth, Prayer, Charity and Hope.

Sincerely in Life,

Nellie

Miss Nellie J. Gray
President



March for Life
Education & Defense Fund
Box 90300, Washington, DC 20090

2/19/2001

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Testimony of Ron Ferris, M.D. in favor of HR 6007
February 19, 2001

Thank you for the opportunity to offer testimony to you here today. As way of introduction, I am a family physician in private practice in Wichita, Kansas.

In 1973, at the time of the *Roe v. Wade* decision, arguments for life beginning at conception were made, but could not be scientifically demonstrated. Our understanding at that time regarding the DNA molecule of a human chromosome was only just beginning. Today, the human genome project has become completed and gives us a detailed map of each chromosome. Given such a great achievement, we find ourselves at a crossroads and cause to re-examine the evidence for when life begins.

It is a demonstrable scientific fact when the 23 chromosomes carried by a sperm encounter the 23 chromosomes carried by the ovum, all of the information necessary and sufficient to produce all of the characteristics of a new and unique human being are organized into one place and structure we call the human genome. This unrepeatable human genome comprised of 46 chromosomes assembled at the moment of conception carries the personal constitution for a specific human being. In 1989, Dr. Alec Jeffreys in England developed a technique whereby genetic information could be extracted from the nucleus of one cell. Dr. Jeffreys went on to demonstrate, through scientifically provable procedures, the ability to verify through DNA that all of life's messages are written in the very first cell. The possibility exists now to recognize a characteristic sequence of the Y chromosome from a single cell of the youngest embryo.¹ The determination of the sex of an individual is technically realizable on an embryo only several days old. This information is not theoretical, but is information which the science of genetics knows beyond any doubt. This exact information led Judge Dale Young to make his judgment on September 21, 1989 in a case regarding the custody of seven human embryos in frozen storage.

¹ A.H. Handyside et al., *Nature* 344 (1990): 768-70.

It was the trial of *Junior L. Davis v. Mary Sue Davis*, in the Circuit Court for Blount County, State of Tennessee, at Maryville, Tennessee. Two conclusions of the court, after expert scientific testimony was rendered, were: (1) From fertilization, the cells of a human embryo are differentiated, unique, and specialized to the highest degree of distinction (2) Human life begins at conception.² The Maryville judgment is now part of universal jurisprudence and is especially noteworthy in revealing that the scientific evidence considered was adequate to make a determination. At the time of the *Roe v. Wade* decision in 1973, Justice Blackmun stated, “the judiciary, at this point in the development of man’s knowledge, is not in a position to speculate as to the answer” regarding when life begins.³ It is clear that as of 1989, the courts need to no longer speculate being confronted with scientific fact. That same scientific evidence confronts us today. The mapping of the human genome represents advances in scientific technology that have progressed even further in the development of our understanding of the origins of human life. The Legislature has exclusive and ample power to determine the public policy of the state.⁴ House Resolution 6007 is about making a determination long overdue by the Legislature of Kansas that human life begins at conception and affirming the inalienable right to life of all human beings guaranteed by Section 1 of the Bill of Rights of the Kansas Constitution.

With all the current evidence, the real question today is not when human life begins, but whether to give value to a human life at its early and most vulnerable stages of existence. In the 1981 Senate Hearings on the beginning of human life, the many medical and scientific witnesses who testified disagreed on many things, but not on the scientific evidence that the unborn child is alive, is a distinct individual, or a member of the human species. They did disagree over the value to place on human life at its earliest beginning. There is no cause more important for preserving freedom than affirming the transcendent right to life of all human beings. House Resolution 6007 is about this fundamental right to life, without which no other rights have any meaning, being extended to the human being at conception. Let it be recognized in our public policy that the State of Kansas does indeed place a great value on all human life.

² *Tennessee Code Annotated* 20-5-106(b).

³ *Roe v. Wade*, 410 U.S. 113, 159 (1973).

⁴ *Cavender v. Hewitt*, 239 SW 767 (1922).

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Right To Life of Kansas, Inc.
214 SW 6th Ave. Suite 208
Topeka, Kansas 66603

February 19, 2001

Testimony of Elmer Feldkamp, President of Right To Life of Kansas
before the
Kansas House Federal and State Affairs Committee

Mr. Chairman and members of the Federal and State Affairs Committee. I am Elmer Feldkamp, President of Right To Life of Kansas. I appreciate the opportunity to come before you today on behalf of those children yet to be born and to ask your support of House Resolution 6007.

My comments will be brief as there are experts with us today who are much better at explaining the scientific questions concerning the beginning of each individual human life than I.

But I would like to comment on how we have come to allow the destruction of millions of preborn innocent human beings and the effect House Resolution 6007 would have in resolving this issue. In the 1973 *Roe v. Wade* decision the Court dismissed the biological fact of the preborn's humanity and decriminalized the killing of preborn babies.

Justice Blackmun wrote perhaps the most infamous line from *Roe*: "We need not resolve the difficult question of when life begins." He went on to declare that since "medicine, philosophy, and theology are unable to arrive at a consensus" as to when a human comes into existence, the Court would not speculate.

But this issue cannot be resolved by considering anyone's religious faith belief or philosophical outlook on life. The question of when an individual human life begins can only be answered by those scientists working in the field of biology or, more specifically, the field of genetics.

The Court prides itself on considering 'facts' to reach a decision. HR 6007 requires only that those now known facts concerning the beginning of life be presented to the Court in such a way as to give the Court an opportunity to acknowledge that an individual human life exists from fertilization.

As far as the law is concerned it makes no difference what you or I believe the Bible says or does not say about life before the child is born. Now that it can be scientifically demonstrated that a human being exists at fertilization that little 'human being' possesses the same inalienable equal right to life that protects you and me.

Thank you.

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NOTRE DAME LAW SCHOOL
NOTRE DAME, INDIANA 46556

February 12, 2001

Mr. Elmer Feldkamp
Right to Life of Kansas
214 S.W. 6th Ave.
Topeka, KS 66603

Dear Mr. Feldkamp:

Thank you for sending me a copy of the revised Kansas Human Life Resolution (H.R. 6007, Session of 2001) which is pending in the Kansas legislature. It requires the Kansas Attorney General to bring an action to determine the constitutionality of Kansas statutes that allow abortion.

In Roe v. Wade the Supreme Court of the United States held that, whether or not the unborn child is a human being, he is not a person for purposes of the Fourteenth Amendment and therefore has no constitutional right to life protected against the state. In numerous cases since Roe, facts demonstrating the humanity of the unborn child have been presented to the Supreme Court, but the Court has declined to decide that question. Instead, the Court has rested on the basic holding of Roe, that, whether or not the unborn child is a human being he is a non-person.

Under Supreme Court precedents, a state can expand, but not contract, the protection given to a constitutional right by the Supreme Court. The Kansas Bill of Rights affirms that "[a]ll men" are possessed of the right to life. As I understand Kansas law, this term includes all human beings. If this and other provisions of Kansas law were interpreted so as to prevent legalized abortion, such would contract the right to abortion which the Supreme Court holds to be a "liberty" interest protected by the Fourteenth Amendment. If looked at in that way, such an application of Kansas law could be held to violate the United States Constitution as interpreted by the Supreme Court. On the other hand, the provisions of Kansas law protective of unborn human beings could be held not merely to restrict the abortion right, but to expand a right, the right to life, which Kansas law creates as a matter of state law in human beings.

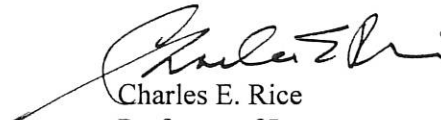
The Resolution seeks an interpretation of Kansas law and the Kansas Bill of Rights rather than an interpretation of the United States Constitution. There is nothing in the decisions of the Supreme Court of the United States which conclusively forbids Kansas to define and protect the rights of the unborn child beyond the extent to which those rights are recognized and protected under the United States Constitution. This Resolution cannot be dismissed as a futile exercise. Rather, in my opinion, it is a much needed affirmation not only of the rights of the unborn child under Kansas law but also of the reserved power of the State of Kansas to define, as a matter of state law, the meaning and scope of the Kansas Bill of Rights.

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It would be an important and useful initiative for the Attorney General to seek a judicial resolution of this issue. It would especially advance coherence in this area of the law if this effort were so framed as to invite the Supreme Court to resolve two questions, first, whether the unborn child is a human being and, second, whether all human beings are entitled to be treated by the Constitution of the United States as persons.

In conclusion, House Resolution 6007 is, in my opinion, a desirable and sound measure.

Sincerely,



Charles E. Rice
Professor of Law

CER/lp

WEE LIFE, INCORPORATED

Mr. Chairman, distinguished members of the committee, Wee Life, Incorporated, a non-profit corporation dedicated to re-establishing constitutional protection for the human being in the womb, vigorously supports House Resolution 6007 as it endeavors to put the preborn human child back under the legal protection of the Kansas Constitution.

The Kansas Constitution, the basic and highest law of the state, proclaims: "All men are possessed of equal and inalienable natural rights, among which are life, liberty, and the pursuit of happiness." The term 'men' as used in the constitution is accepted to mean all human beings.

All known medical and scientific evidence reaffirms that life in the womb, from conception to birth, has all the attributes of a human being. At conception a new human life is formed, completely distinct in genetic character from either of its parents. Each human being has set characteristics at conception that are unique to that individual only, never to be repeated in all of history, laid down in the DNA, which prescribes whether or not the human being is a he or a she, how tall he or she will be, what skin color he or she will have, what the eye and hair color will be. By using DNA profiling, even before birth, we can be absolutely sure we are monitoring the same individual from conception and throughout the human being's life. Fingerprints, another unique identifying characteristic of human beings, have already formed by the ninth week after conception and, except for size, will never change.

According to biological and medical fact, it is reasonable to conclude that there is no time between conception and birth at which point we can say that life in the womb is not human. By its very characteristics, the life in the womb is undoubtedly a human being! Medical and scientific facts set forth the contention that personhood is established at conception; that the life in the womb is a "person" from the moment of conception to the final stage at birth.

Wee Life contends that an unborn child is its own individual person from conception and therefore should be given the same rights as any other individual. The child in the womb should have the same constitutional rights as the pregnant mother, including the very fundamental right to life guaranteed by the Kansas Constitution and the United States Constitution. The starting point of conception is the true beginning of human life and the point from which that life should be protected. The life of the unborn child should be given equal status with that of other human beings. There can be no argument that the unborn child is certainly alive and certainly human.

By holding abortion to be a protected liberty, the unborn child's right to choose whether to live or die is denied. Obviously, the preborn cannot be interviewed to determine which choice he or she would make, but even the most staunch abortion supporter would have to concede that most definitely the unborn child would choose life! Because preborn children cannot speak for themselves, it is up to us to carry this message for them. To mutilate, poison or otherwise brutally kill a totally dependent, completely innocent and absolutely helpless member of the

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human race is the height of injustice! The preborn are part of the same human family as those of us here today and deserve better than being declassified as something other than human. The unborn child has become a nonentity, dehumanized as a "fetus".

Regardless of stage or condition, the preborn in the womb ARE human beings and, therefore, should be respected and protected by the law of the land. Any interpretation of Kansas statutes which permits abortion, the destruction of a human life, ought to be held unconstitutional.

Wee Life, Incorporated urges this committee to pass House Resolution 6007 as it seeks to provide equal protection for the most defenseless and innocent members of our society, the human child in the womb. Wee Life believes that EVERY human being has equal value and intrinsic worth and should be accorded the right to live.

The killing of innocent human beings is intrinsically illegal! The state's primary obligation and fundamental purpose is to protect human life and human rights. The inherent dignity and invaluable worth of human life give the state its reason for being. When you are dead nothing else matters!

Mr. Chairman, members of the committee, thank you for the opportunity to speak out in favor of this resolution.

T Kansas Choice Alliance

House Federal and State Affairs Committee
Testimony in Opposition to HB 6007
February 19, 2001

Submitted by: Barbara M. Duke on behalf of AAUW-Kansas and the
other members of the Kansas Choice Alliance (785-749-0786)

Aid for Women
American Association of University
Women - Baldwin Branch
American Association of University
Women - Kansas
American Association of University
Women - Shawnee Mission Branch
American Civil Liberties Union of
Kansas and Western Missouri
Choice Coalition of Greater Kansas
City
Greater Kansas City Chapter of
Hadassah
Jewish Community Relations
Bureau/American Jewish
Committee
Jewish Women International
Kansas Religious Leaders for
Choice
KU Pro-Choice Coalition
League of Women Voters of
Johnson County
League of Women Voters of Kansas
League of Women Voters of
Wichita-Metro
MAINstream Coalition
National Council of Jewish Women,
Greater Kansas City Section
National Organization for Women,
Johnson/Wyandotte County
Chapter
National Organization for Women,
Kansas Chapter
National Organization for Women,
Kansas City Urban Chapter
National Organization for Women,
Lawrence Chapter
National Organization for Women,
Manhattan Chapter
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Planned Parenthood of
Kansas & Mid-Missouri
Pro-Family Catholics for Choice
Wichita Family Planning
Women's Health Care Services
YWCA of Wichita

Chairman Mays and Members of this Committee:

House Resolution 6007 directs the attorney general to file a lawsuit to determine that life begins at conception/fertilization. Proponents of this resolution strongly believe that human life begins at the moment a human egg is fertilized. And that is what is wrong with this resolution. Its argument is based on belief, not on scientific or medical fact. Imposing this particular religious view on others threatens not just women's reproductive freedom but the religious freedom that is America's founding value.

Yes, the fertilized egg normally contains all the elements necessary for a human life to develop. But pregnancy and human development is a process rather than an absolute moment. It takes nine months of growth and development to produce a human infant ready to be born and recognized as a person. As a parent I could argue that it takes another 20 years or more to develop a fully human person.

There is a practical reason for defining personhood at birth. The moment of birth is known; the moment of fertilization is speculative. Former Supreme Court Justice Tom Clark asserted that "the law deals in reality, not obscurity; in the known rather than the unknown. When sperm meets egg life may eventually form, but quite often does not. The law does not deal in speculation."

The right-to-life movement regards every degree of human life as equal to the most complete development of human life, and values fetal life over the life of the woman upon whom the fetus is totally dependent. We believe there are moral considerations other than those of the life of the fetus and that the consequences of H.R. 6007 are far ranging.

The lawsuit demanded by H.R.6007 would be lengthy and enormously expensive for the people of Kansas. It represents a dangerous extension of state power. We urge you to defeat it and turn your attention to improving programs and benefits for the existing children in our state.

Thank you for your attention and thoughtful consideration.



The Kansas Choice Alliance
902 Pamela Lane, Lawrence, KS 66049-3020

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Copies of written testimony presented in 2000
in opposition to HR 6006
by Dr. John Swomley and Dr. Charles Baughman

Provided for the House Committee on Federal and State Affairs
in opposition to HR 6007

February 19, 2001

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THE BEGINNING OF HUMAN LIFE IN THE BIBLE

by Charles W. Baughman

When does human life begin? In Genesis 2.7 we have the first detailed account of the creation of a human being by God: "Yahveh God (The LORD God) formed the man from the dust of the earth and breathed into his nostrils the breath of life and the man became a living *nefesh*." We could translate *nefesh* here as either "breath" or "being". This indicates that life began for this human being when God breathed breath into him.

In Genesis 7.21-22: "And all flesh that moved on the earth perished, birds, cattle, wild animals, all swarming creatures that swarm upon the earth and all human beings. Everything which had the breath (Hebrew, *nishmat*) of life in its nostrils, all that were on dry land died. Genesis 6.17 and 7.15 contain the same idea. However, *ruach* ("breath" or "spirit") is used rather than *nishmat*. Again, breath is understood to be essential to life and when the breathing stops, life ends.

This understanding is found throughout the Hebrew Bible. For example, in Joshua 10.40, it is reported, "Joshua fought against the whole land, the hill country, the South, the lowlands, the mountain slopes, and all their kings. He did not leave a single survivor but exterminated everything that breathed." Here life and breathing are again equated. This same equation between life and breath is made again in Joshua 11.10 and 14.

In 1 Kings 17 Elijah is living with a widow in Zarephath, in Sidon. The son of the widow became ill and "his sickness was very severe, so much so that his breath left him." (1 Kings 17.17) Elijah said to the woman, "Give me your son." The prophet took the boy out of her bosom and carried him to the roof chamber, laid the child on his bed and cried out to Yahveh, "O Yahveh, have you even brought evil upon the widow with whom I am staying by killing her son?" Then the prophet stretched himself upon the child three times and cried to Yahveh, "O Yahveh, my God, let the breath (Hebrew, *nefesh*), of the boy enter into him again!" (17.19-21) Yahveh listened to Elijah's plea and caused the life force (or "breath") of the boy to enter him once more and he lived. (17.22) Once again we see the close connection between life and breath.

Genesis 35.18 provides further confirmation of the connection between life and breath. Rachel has given birth to Benjamin and is dying. "The New International Version translates this, "As she breathed her last, for she was dying." Jeremiah 15.9 states the idea vividly, "She who had borne seven languished; she breathed out her *nefesh*."

One of the most graphic examples of the equation of life and breath in the Bible occurs in Ezekiel 37. Here Ezekiel sees a valley of dry bones. Finally, after being reformed into bodies they do not live until breath enters them. Psalm 104.29-30, again, illustrates breath brings life.

The Law in Exodus 21.22ff. further confirms that in the Bible a fetus is not considered to be a living human: "Whenever men struggle with each other and strike a pregnant woman so that she miscarries but there is no harm; he shall be severely fined according to that which the husband of the woman shall impose upon him and he shall pay as the judges decide. (23) If there is harm, you shall give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn

for burn, bruise for bruise, blow for blow.” Here only harm to the woman is considered, since the aborted fetus would be dead. Thus, the fetus is not regarded as a human life.

I believe this look at when human life begins in the Bible demonstrates that, in the early life of Israel and even later Judaism, they believed that life entered the child when it was born and became a living, breathing being. While many religious people have claimed for a long time that human life begins at conception, only recently has this position been adopted by others, clearly it conflicts with the Biblical understanding.

TESTIMONY ON KANSAS HOUSE RESOLUTION NO. 6006
February 1, 2000

My name is John M. Swomley. I am an ordained member of the Kansas East Conference of the United Methodist Church, Professor Emeritus of Christian Ethics at Saint Paul School of Theology, and President of Americans for Religious Liberty, a national organization in the Washington DC suburbs. In addition to degrees in religion I have a Ph.D. in political science, including Constitutional Law, and have taught Biomedical Ethics at summer schools in Kansas University Medical Center. I am here today to represent Planned Parenthood of Kansas and Americans for Religious Liberty.

The constitutional and biological assertions in House Resolution 6006 are totally in error, as I shall demonstrate in the following six points:

1. It is an attempt by one group of state legislators to define "personhood" contrary to the 14th Amendment, which gives no right of personhood to a fertilized egg. That Amendment says "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."

2. The reference in this resolution to West Virginia State Board of Education v. Barnett is taken out of context and applied wrongly to a sectarian reference about a fertilized egg. The "classic definition of religious freedom" in that flag salute decision is this: "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can

what shall be orthodox in politics, nationalism, religion or other matters of opinion, or force citizens to confess by word or act their faith therein."

3. The attempt to define personhood at fertilization is the position of one church applied only to contraception and abortion. And even that church has not defined a fertilized egg officially as a person. It cannot be baptized, or otherwise even discovered medically until after implantation in the uterus, which may take up to a week or more after fertilization.

4. None of the references to life, liberty and the pursuit of happiness in any American document such as the Declaratin of Independence or the Kansas Constitution can be construed as referring to an unborn fetus. The only place in the Federal Constitu-tion referring to life is in the 14th Amendment where it says no "state shall deprive any person of life, liberty or property without due process of law."

In Colonial America and even after the Constitution was adopted, English Common Law was in effect. It permitted abortion before fetal movement or "quickenning", which was generally detectable after about the 16th week of pregnancy. There were no laws with respect to abortion in the U.S. prior to 1821 in Connecticut, 1827 in Illinois, and 1830 in New York. A New Jersey case, State vs. Murphy explained the purpose of its 1849 statute. It said, "The design of the statute was not to prevent the procuring of abortions, so much as to guard the health and life of the mother against the consequences of such attempts. . . It is immaterial whether the fetus is destroyed or whether it has quickened or not...."

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It is clear that the fetus was not what the Declaration of Independence had in mind when it referred to persons and their right to life, liberty and the pursuit of happiness.

5. It is incorrect to state (line 41) "all medical and scientific evidence acknowledges and affirms" that all the basic attributes of human personality. . . exist at fertilization." And in line 34 p. 2 it speaks of "undeniable medical and scientific facts."

Here is what Dr. Charles Gardner, who did his research at the University of Michigan Medical School's Department of Anatomy and Cell Biology, wrote:

"The 'biological' argument that a human being is created at fertilization . . . comes as a surprise to most embryologists. . . for it contradicts all that they have learned in the past few decades. '

Gardner noted that "in humans when two sibling [fertilized] embryos combine into one [as sometimes happens], the resultant person may be completely normal. If the two original [fertilized] embryos were determined to become particular individuals, such a thing could not happen. The embryos would recognize themselves to be different. . . and would not unite. But here the cells seem unaware of any distinction between themselves. . . The only explanation is that the individual is not fixed or determined at this stage [fertilization]"

Gardner further stated, "The information required to make an eye or a finger does not exist in the ferti-

lized egg. It exists in the positions and interactions of cells and molecules that will be formed at a later time."

Gardner concludes that "Fertilization, the injection of sperm DNA into the egg, is just one of the many small steps toward full human potential. It seems arbitrary to invest this biological event with any special moral significance. . . It would be a great tragedy if, in ignorance of the process that is the embryo, state legislators pass laws restricting individual freedom of choice and press them upon the people. The embryo is not a child. It is not a baby. It is not yet a human being."

Michael Bennett, chair of the Department of Neuroscience, Albert Einstein College of Medicine, wrote: "Personhood goes with the brain and does not reside within the recipient body. . . There is none, not heart, kidney, lung or spleen, that we cannot do without or replace artificially. The brain is the essence of our existence. It cannot be transplanted."

6. This proposedd legislation has serious implications not only for abortion but for contraception. It would outlaw major methods of contraception that take effect after intercourse, such as the IUD and pills that prevent implantation, and would validate only barrier methods of contraception.

Moreover, it is unenforceable. A Catholic embryololgist trained in Roman Catholic theology, Robert Francouer, wrote that "legal pronouncements about personhood from the moment of concep- tion could be translated into a Brave New World with pregnancy police to make certain that all fertile women have their

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pregnancy test, and all pregnancies are monitored to assure the Constitutional, God-given inalienable right of every fertilized egg to life, liberty and the pursuit of happiness." Will fertilized eggs be counted in the census? Will parents receive conception certificates instead of birth certificates?

Will the state issue death certificates for miscarriages and require embalming? Of course a fetus would be sent to prison if the pregnant woman commits a crime, or can the fetus keep a convicted felon out of prison because a right to life, liberty and the pursuit of happiness is guaranteed the fetus?

What about denominations that accept the Biblical definition of a human being as being born, and do not baptize miscarried embryos and fetuses?

The sectarian writers of this proposed legislation should take another look at what they have written. Do they really want to impose their religious beliefs on other faiths?

From an ethical standpoint, the implications of this resolution are that the life of the fetus is more important than the life of the woman who carries it and more important than her born children.

This resolution does not recognize the conflict of life with life. Some years ago at a meeting of the American Society of Christian Ethics a workshop was confronted with the case of a 3-year-old child and an 18-week fetus, both with a dread disease for which there was only one injection of medicine in Chicago. The Chicago airports had been shut down by a blizzard, preventing the doctors from obtaining more of the medicine.

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We unanimously concluded that the child should get the injection. The moral difference is that the child is among us in a way that the fetus is not. The child's claim is based on relationship, rather than on a legal point of birth.

Although the Roman Catholic hierarchy strongly opposes intentional abortion, in practice it sometimes recognizes the priority of the woman over the fetus, as is evident in the following excerpt from a U.S. Catholic Conference publication.

Operations, treatments and medications which do not directly intend termination of pregnancy but which have as their purpose the cure of a proportionately serious pathological condition of the mother, are permitted when they cannot be safely postponed until the fetus is viable, even though they may or will result in the death of the fetus.

Finally, this whole resolution is based on a propaganda term known as prolepsis, which Webster defines as "an anticipation; especially the describing of an event as taking place before it could have done so; the treating of a future event as if it had already happened." For example, describing an acorn as if it were already an oak tree or an egg as a chicken.

The most characteristic aspect of personhood is consciousness, that is dependent on a brain.



KANSAS NATIONAL ORGANIZATION FOR WOMEN

PO Box 55531 Lenexa, KS 66285 913 384 7900

February 19, 2001

Federal and State Affairs Committee

Chairman Doug Mays and Committee Members:

Thank you for allowing me to present testimony in opposition to H.R. 6007.

Whereas, most members of NOW would agree with the Bill of Rights that "All men" and adult women, hereafter referred to as female or women and accepted to include adult male or men (since female includes male and women includes men) but excepting children, "are possessed of equal and inalienable natural rights, among which are life, liberty, and the pursuit of happiness."

Whereas, the majority of NOW members, wo/men and fe/males would agree that the right to life, logically enumerated first, is the basic, most fundamental right without which all others are meaningless.

While some may say a zygote exists and is a living cell, but does not constitute a "wo/man or fe/male", others may not agree. It is irrelevant. Constitutional inquiry is a waste of taxpayer funds because these questions, opinions and beliefs do not bear on the issues that give rise to abortion rights.

The fetus isn't "in utero" and wo/men and fe/males aren't uteri. It's inside the body of another "wo/man" who has the absolute right to say s/he doesn't want it there, just as every other wo/man has the right to say, "Heck no, I don't care if Strom Thurmond needs my kidney and removing one won't threaten my own life; he still can't have it."

What the Kansas Legislature is loosing sight of is that the "right to life, liberty and the pursuit of happiness" presumes one to have sovereignty over one's own body and the freedom to make choices as to the course of one's own life.

When considering this resolution, please take into account how the taxpayer dollars of Kansans would best be spent on the many needs of the existing children of Kansas.

Respectfully submitted by
Sharon Anne Lockhart
Kansas NOW Lobbyist & State Coordinator

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