Reversing Landmark Abomination Cases

Saving Babies from judges & voters

Saving Souls from 'Scrupulous Neutrality' about Religion

by proving in courts of law and in the Court of Public Opinion that:

The right to live of a baby and of a judge are equal

The Bible & reality-challenged religions are NOT equal

A STRATEGY OF LIFE THAT RELIES ON THE AUTHOR OF LIFE

FOR PRO-LIFE, PRO-BIBLE LAWMAKERS, LEADERS, LAWYERS, AND LAYMEN

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It is the fact that unborn babies are living human children that makes killing them murder. It's not what any *law* says about it, or even what the Constitution says about it. That's what leaves *Dobbs v. Jackson* on the edge of reality, by treating this fact as something for voters to figure out, not on the basis of whether babies are *in fact* people but on the basis of some "value" they place on *little* people.

That fact is what makes the consensus of court-recognized fact finders a stronger legal reason to end legal abortion than a Life Amendment, and a powerful social reason in the Court of Public Opinion able to soften hearts to the silent screams of Jesus' little brothers and His quiet knocking on hearts' doors. Which makes it insane for prolifers to not even mention this legally dispositive consensus in each and every prolife court case, and every "finding of fact" in prolife legislation, along with leveling with the public about the Scriptures which are the real reason we even care.

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Why these solutions may help even where abortion is already outlawed

(1) They could defeat a national abortion legalization.

(2) They could help you sue a nearby "blue state" for helping its baby killers murder your children.

(3) They could help if your district judges join the courtroom rebellion against Dobbs in other states.

(4) They could help meet challenges in the Court of Public Opinion, for example through a Resolution that irrefutably addresses every objection you have ever heard, as understandable to voters as it is irrefutable to judges. That would help the public see through future judicial gaslighting, and support judicial reform: ie. www.savetheworld.saltshaker.us/wiki/Judicial_Accountability_Act:_How_Legislatures_can_stop_judges_from_legislating

(5) I could sure use your feedback. Proverbs 15:22.

Ending legal abortion *everywhere* in close to a year,

(the goal of the following bill language)

requires a law whose "Findings of Facts":

• ***contain evidence which no judge can squarely address and keep abortion legal anywhere:*** *that unborn babies are real people – established by the consensus of court-recognized fact finders: juries, expert witnesses, 38 state legislatures, Congress, & individual judges;*

• ***present it in a way that is as clear and persuasive to voters,*** *to help them see through judicial and media gaslighting; (See "**Why court-recognized fact finders persuade Voters**")*

• ***address misunderstandings about abortion jurisprudence*** *that divide prolifers, intimidate lawyers, and blind judges;*

And whose Penalties:

• ***restrict some aspect of abortion substantially enough*** *that they can't be defended as a mere regulation with another legitimate government purpose than saving lives. The findings need to force*

courts to address the evidence that babies are fully human;

• ***provide no distractions that let judges rule on some technicality and ignore the evidence that the law would save lives.*** *A perfect law that addresses everything from exceptions to contraception multiplies a judge's opportunity to say "we don't need to reach the issue of when life begins because the law fails on this lesser issue." [As Justice Roberts stated in his Concurrence in Dobbs v. Jackson: it is "a simple yet fundamental principle of judicial restraint: If it is not necessary to decide more to dispose of a case, then it is necessary not to decide more."] The goal of this legal strategy is to get judges out of the way, freeing lawmakers to work out the challenging details with time to get a comprehensive solution right and with hope that they won't waste their time. This requires a simple yet substantial restriction, with "findings" that address the legal obstacles;*

• ***list specific penalties for specific situations,*** *rather than broadly stated goals such as "babies are to be protected as much as adults", leaving prosecutors and judges to guess what to punish, or how, in situations where evidence and culpability are different;*

• ***contain a "life of the mother" exception*** *whose applicability is clear enough that mothers are not denied life-saving care until doctors are assured by lawyers that said care will not put the doctors in jail; (for example, "The duty of a doctor is to save the life and health of both mother and child if possible. Separation of mother and child is justified when that will reduce danger to the mother. That will still give the child a chance to live who is old enough. A child not old enough will be at no greater risk of death outside the mother than inside a mother at risk of dying. A child separated to reduce danger to the child's mother has a fundamental right to the same care as any other prematurely delivered baby.") and*

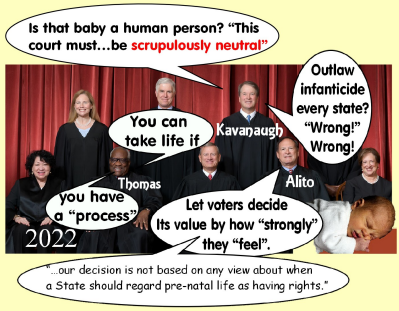
The law should also ***order courts to "expedite" any review,*** *"because lives are lost with each day that courts delay". More ideas: http://savetheworld.saltshaker.us/wiki/**Judicial_Accountability_Act:***
_How_Legislatures_can_stop_judges_from_legislating

(A grant of expedited review will constitute tacit agreement that babies are people. To deny expedited review a judge would have to claim that lives are NOT lost with each day that courts delay; but there is simply no evidence to support such a claim! No American legal fact-finding authority in 50 years has dared such a claim! SCOTUS, from Roe to Dobbs, claims that even Supreme Court judges are incompetent to know - will a lower court judge claim superior knowledge?! Checkmate! See below for Expedited Review federal rules.)

WORD COUNTS: Using only the first boldfaced paragraph of each of these

12 Findings, in the "findings of facts" of a prolife law, will total about 200 words. The complete Findings, without footnotes, total nearly 3000 words. For the advantages of including enough information in a prolife law for the Findings to defend themselves, see "Too Lengthy?" below.

ABOUT THE AUTHOR: I am not a lawyer. But writing about prolife legal defenses designed to bring legal abortion to an end, and Scriptures calling for that goal, for 25 years in my Prayer & Action News, being uncertified as a lawyer, has created the opportunity for a remarkable interaction with Planned Barrenhoods priciest lawyers. Because news reporters wouldn't report that my reasoning was designed as legal defenses in court, or that they were grounded in the Bible, what that left was their accusation that I advocated crime; whereas had my defenses been successful they would have allowed citizens to stop murderers legally, putting an end to the reason citizens took action.



Quotes from *Dobbs v. Jackson,* 597 US (2022)

This book offers statements about abortion which I challenge anyone to refute. They are designed to soften the resistance of voters to thoroughly outlawing baby murder, when presented in public, and to force judges to outlaw abortion in every state, when presented in court.

They are truths designed to be so uningnorable, that when any lawmaker includes them in the "findings of facts" of a prolife law, in any state, prodeath fury will help publicize them with each advance through legislative deadlines. When friends of babies see them survive scrutiny, they will roll and grow like a snowball down a hill

But murdering babies is only the most eggregious of many Landmark Abomination Cases. Their common thread is usurping authority which the Constitution assigns to others, and equating the Bible with spurious religions. "Never let a crisis go to waste", say the enemies of God, but God is the true master of turning evil into an opportunity for good. It's time. Let's end the Supreme Court's war against God.

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The right to live of a baby and of a judge are equal
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A strategy of Life that relies on the Author of Life
for pro-Life, pro-Bible Lawmakers, Leaders, Lawyers, and Laymen
Enriched by nuggets from the 140 Amicus Briefs
Filed in Dobbs v. Jackson, the June, 2022 ruling
that overturned Roe v. Wade

By Dave Leach
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Including the full text of 12 “Findings of Facts” (Statements of Fact) without their footnotes

disagreement about abortion is between unanimous fact finders and the indifferent.[10] Courts that won't address the facts that justify and necessitate a law, or hear evidence of those facts, violates Due Process and forfeits jurisdiction to review that law.[11])

21 **9** more about "For other public issues, division is over facts."

22 **10** more about "Disagreement about abortion is between unanimous fact finders and the indifferent."

22 **11** more about "Courts that won't address the facts that justify and necessitate a law, or hear evidence of those facts, violates Due Process and forfeits jurisdiction to review that law."

25 Matthew 16:24-27

26 ***Finding #2:*** *Courts Accept the Fact-Finding Authority of Legislatures, Juries, and Experts for the same good reasons their findings persuade the public.*

(SCOTUS must accept legislative findings of facts that are not obviously irrational. "..the existence of facts supporting the legislative judgment is to be presumed...not to be pronounced unconstitutional unless in the light of the facts made known or generally assumed it is of such a character as to preclude the assumption that it rests upon some rational basis within the knowledge and experience of the legislators...." U.S. v. Carolene Products, 304 U.S. 144, 152 (1938).[1])

27 **1** more about "US. v. Caroline Products"

(Besides the court-recognized fact finding authority of legislatures, courts must conform their rulings to laws until such time as courts declare laws unconstitutional. No court has overturned the "unborn victims of violence" laws (based on "human babies are people") of 38 states and Congress, despite many challenges.[2])

28 **2** more about "'Unborn victims of violence' laws...of 38 states and Congress [have survived] many challenges"

(To do so would require a court to positively affirm that human life does not *begin until much later, which no legal authority has done, and for which no evidence exists.*

Courts call legislatures, juries, and expert witnesses "fact finders" and regard their findings for the same good reasons their findings persuade the public.[3])

31 **3** more about (Fact finders) persuade the public

*(**Legislatures** are persuasive because lawmakers are there by the choice of a majority of voters. They are bombarded by information from experts. They are scrutinized by other lawmakers. Many are lawyers, some of whom are constitutional scholars and past or future judges. They set the salaries of judges, and have the power to hold impeachment trials of judges.*

***Congress**, the national legislature, scrutinizes Supreme Court justices, and many congressmen are equally qualified: 15 U.S. Senators have served on the Supreme Court, and more were nominated.[4])*

4 more about "15 U.S. Senators served on the U.S. Supreme Court"

*(**Juries** are tested for impartiality. They are educated by the most qualified expert witnesses available. They study as long as necessary to establish truth – sometimes for months. Juries become authorities.[5])*

5 more about "Juries become authorities"

*(**Expert Witnesses** are the most competent experts money can buy, and they are scrutinized by the other side's experts.[6]*

For all its faults, the American court system has among the top methods of establishing reality that is available to humans. Courts know it. The public knows it. We can all stop pretending we are without the means to tell if a baby of a human is a genuine human, which makes killing babies legally recognizable as murder, which no state may legalize.)

6 more about "Expert Witnesses are...scrutinized by the other side's experts"

Mark 8:38

***Finding #3:** The FACT that Babies are Fully Human was never denied or ruled irrelevant by SCOTUS.*

(From Roe (1973) through Dobbs (2022), SCOTUS evaded that core issue.[1])

1 more about "From Roe...through Dobbs...SCOTUS dodged [the fact that babies are fully human]"

(SCOTUS never ruled babies Non-Persons "as a Matter of Law", as lower courts allege.[2] Roe made that fact not only relevant, but dispositive, with a holding which no court has disputed even though Roe's main holding was overturned:[3] "[Prolifers] argue

that the fetus is a 'person' within the language and meaning of the Fourteenth Amendment....If this suggestion of personhood is established, the [abortionist's] case, of course, collapses, for the fetus' right to life would then be guaranteed specifically by the [14th] Amendment [thus outlawing abortion in EVERY state]. The [abortionist's lawyer] conceded as much...."[4])

45 **2** more about "SCOTUS never ruled babies Non-Persons 'as a Matter of Law', as lower courts allege [making the *fact* that babies are people 'irrelevant'!]"

48 **3** more about "(If babies are people we can't murder them was) a holding which no court has disputed"

49 **4** more about " '[The abortionist] conceded' that 'if...personhood is established', then the 'case' for legal abortion 'collapses' "

(Dobbs explicitly left this statement of the obvious untouched, saying "our decision is not based on any view about when a State should regard pre-natal life as having rights or legally cognizable interests...."[5] Dobbs did not say babies aren't people. Dobbs did not say voters should still decide whether babies can be murdered in the face of proof that babies are in fact people.[6] Dobbs left in place Roe's observation that "establishment" of this fact, independently of any law, ruling, or future constitutional amendment,[7] dictates whether abortion is legally recognizable as a right or as a crime.[8])

49 **5** more about "Dobbs: 'our decision is not based on...when a State should regard pre-natal life as having rights'...."

50 **6** more about "Dobbs did not say voters should still decide whether babies can be murdered in the face of proof that babies are in fact people."

53 **7** more about "Dobbs left in place Roe's observation that...this fact, independently of any...future constitutional amendment, dictates whether abortion is legal...."

54 **8** more about "whether abortion is...a right or a crime" [is settled by the fact that babies are people, said Roe, an observation which Dobbs did not challenge]"

(This established fact is as relevant today as when Roe said "of course" it is.

This established fact is not disestablished by any judge's alleged inability to understand it.[9]

This established FACT is not made irrelevant by any judge's theory that the legal right of little humans to live is "impossible" to determine so it should be decided by their value to big humans.[10]

If only those legally recognized as "persons" were people, slavery could still be legal and the 14th Amendment would mean nothing. Slavery states would merely need to classify their victims as only 3/5 human. The 14th Amendment protects those who are IN FACT people – what is irrelevant is whether babies are people "as a matter of law".[11]*)*

9 more about "This established fact is not disestablished by any judge's alleged inability to understand it."

10 more about "This established FACT is not made irrelevant by any judge's theory that the legal right of little humans to live is 'impossible' to determine so it should be decided by their value to big humans."

11 more about "The 14th Amendment protects those who are IN FACT people – what is irrelevant is whether babies are people 'as a matter of law'."

Part 2: The Power of Personhood

Luke 22:24-27

Finding #4: *Heartbeats & Brain Waves are Legally Recognized Evidence of Life.*

(Detectable heartbeats and brain waves are evidence that a person has not yet died, throughout state and federal law.[1] *Reason demands they be accepted as evidence that a person has begun to live.)*

1 more about "...throughout state and federal law."

Matthew 10:38-39

Finding #5: *Legislatures should regulate abortion, as Dobbs held, just as legislatures regulate the prosecution of all* other *murders.*

(But not in the sense of absolute discretion to leave wholesale murders of an unwanted group of humans completely unregulated. That interpretation of Dobbs' holding is premised on a "mistake of fact", which is an official exception to Stare Decisis protection.[1]*)*

1 more about "a 'mistake of fact'...is an official exception to Stare

Decisis protection."

(The "Mistake of Fact" that is the premise of letting voters decide whether to continue judge-mandated genocide according to the "value" they place on little people is that that the humanity of babies of humans is either unknowable or irrelevant. That premise was explicit in Roe and Casey, and implicit in Dobbs.[2])

66 **2** more about "The [mistaken] premise... that the humanity of babies of humans is either unknowable or irrelevant...was explicit in Roe and Casey, and implicit in Dobbs."

(That is an erroneous factual premise. The fact that little unborn humans are humans is neither unknowable nor irrelevant. It is verifiable and dispositive.[3] The consensus of court-recognized fact finders cures that knowledge deficit, canceling that Dobbs' holding interpretation, while reinforcing Dobbs' other two holdings that "The Constitution does not confer a right to abortion" and "Roe and Casey are overruled", and requiring the outlawing of baby killing in every state.[4])

66 **3** more about "The fact that little unborn humans are humans...is verifiable and dispositive."

67 **4** more about "The consensus of court-recognized fact finders cures that knowledge deficit...requiring the outlawing of baby killing in every state."

68 Matthew 25:24-30

69 ***Finding #6:*** *The full humanity of a tiny physical body is hard for many to grasp. But what distinguishes us from animals isn't physical, and has no known pre-conscious stage.*

(Part of Roe's definition of "person" was "infused with a soul".[1] Roe thus affirmed the belief of most of society, a belief logically demanded by the common knowledge that humans are distinguished from animals by consciousness which features a capacity for choices at variance with physical needs: to sacrifice one's interests for another,[2] which is how John 15:13 defines "love". And conversely, to destroy one's own body.[3])

71 **1** more about "Part of Roe's definition of 'person' was 'infused with a soul'."

71 **2** more about "Love, as defined by John 15:13, [means] to sacrifice one's interests for another."

71 **3** more about "Capacity...to destroy one's own body [proves] consciousness which features a capacity for choices at variance with physical needs [which was validated when] Part of Roe's definition of "person" was "infused with a soul" [which] affirms the belief of most of society"

(These differences, along with self awareness and the capacity to choose between good and evil[4] – to behave either as an angel or as a demon, can't be explained by any known physical process. These differences justify greater legal protection of humans than of animals.)

72 **4** more about "The capacity to choose between good and evil...can't be explained by any known physical process"

(Since a "soul" without consciousness has never been theorized and can't be imagined, the consensus of fact finders is, in effect, that abortion kills babies with conscious souls. The lack of any physical explanation for a conscious soul rules out any reason to infer immaturity of consciousness from physical immaturity, and is consistent with the report in Luke 1:44 that a baby at 6 months heard a righteous voice [and/or felt the righteous Presence of God] and responded with joy,[5] a response not everybody chooses, indicating that even the capacity for choosing between good and evil precedes birth. And also indicating that when a baby is killed by dismemberment, acid, or sucking out the brain, a self-aware conscious soul feels the pain, understands the cruelty, and if out-of-body near-death experiences are real, sees who is doing it.)

72 **5** more about "a baby at 6 months...felt the...Presence of God and responded with joy...indicating that even the capacity for choosing between good and evil precedes birth."

(Even considering the body only, there is no objective line between birth and conception distinguishing "humans" from "nonpersons", or between "meaningful life" and life which courts may harmlessly terminate.[6] Without such a line, there can be no stage of gestation at which killing a baby can be objectively distinguished from murder. No baby is safe while that line remains arbitrary.)

74 **6** more about "Even considering the body only, there is no objective line between birth and conception distinguishing ... between "meaningful life" and life which courts may harmlessly terminate"

(The failure of some to grasp the humanity of babies at any given stage is a dangerous basis for permitting killing, since as many fail to grasp the full humanity of quite a number of distinct groups of born *persons.*

As Roe correctly established, it can be useful in clarifying who to count as a human with an unalienable right to life, to consult the religion from which that right was copied into America's founding documents. But religions which oppose the foundation of American law – equal rights for all humans, merit little credibility in American courts when their claims justify destruction of an entire people group – such as the claim that souls do not enter bodies until around birth. There can be "free exercise" of religions which do not *equally reverence all human life only to the extent their "exercise" does not violate the rights of others or the laws enacted to protect them.*[7] *)*

75 **7** more about "There can be 'free exercise' of religions which do *not* equally reverence all human life only to the extent their 'exercise' does not violate the rights of others...."

77 **Part 3: Myth Busters**

77 Ecclesiastes 9:10, 1 Corinthians 13:8-12, Matthew 6:19-33

80 ***Finding #7.*** *Congress has* Already *Enacted a Personhood Law as Strong as a "Life Amendment". The 14th Amendment* already *authorizes Congress to require all states to outlaw abortion.*

(Congress established in 2004 that: "'unborn child' means a child in utero, and the term 'child in utero'...means a member of the species Homo Sapiens, at any stage of development, who is carried in the womb", 18 U.S.C. 1841(d).[1]*)*

81 **1** more about "'unborn child' means...a member of the species Homo Sapiens..."

(This fact is not diminished by clause (c) which does not "permit [authorize] the prosecution of any person for...an abortion for which the consent of the pregnant woman...has been obtained. ..."[2] *A law misaligned with facts does not block future lawmakers from making corrections, and states don't need Congress' "permission" to obey the 14th Amendment.)*

81 **2** more about "clause (c) does not 'permit [authorize] the prosecution of any person for...an abortion for which the consent of the pregnant woman...has been obtained.…"

(The reason 18 U.S.C. 1841(d) has had no effect on the practice of legal abortion is not because of any deficiency in its authority to establish dispositive facts, but because no state law reviewed by SCOTUS has cited it to establish what Roe correctly said once "established" would "of course" require the end of legal abortion.

Not only is the 2004 law unmitigated evidence of life strong enough to "collapse" legal abortion by itself, but it would not be stronger if it were an Amendment to the Constitution.[3] No other Constitutional Amendment is relied on for evidence of a fact. An Amendment can bind courts. But establishment of the Facts Of Life by evidence presented, cited, and tested in court draws not only courts, but society, closer to reality.[4])

82 **3** more about **"**(18 USC 1841(d)) would not be stronger if it were an Amendment to the Constitution."

83 **4** more about "Establishment of the Facts Of Life by evidence presented, cited, and tested in court draws not only courts, but society, closer to reality."

84 Philippians 4:11-13

85 ***Finding #8:*** *Roe, Dobbs, and the 14th Amendment agree: All Humans are "Persons".*[1]

87 **1** more about "Roe, Dobbs, and the 14th Amendment agree: All Humans are 'Persons' "

(Neither Dobbs nor Roe distinguished between "humans" and "persons" as if a "human" baby isn't necessarily a "person".[2] The word "person" in the 14th Amendment means "An individual human being...man, woman, or child...consisting of body and soul." The word "child" in the definition includes unborn children, since to be "with child" means to be pregnant.[3])

89 **2** more about "Neither Dobbs nor Roe distinguished between 'humans' and 'persons' as if a 'human' baby isn't necessarily a 'person'.

89 **3** more about "The word 'person' in the 14th Amendment means 'An individual human being...man, woman, or child...consisting of body and soul.' "

(Therefore the Amendment's "equal protection" of all "persons" means of all humans, including those unborn. Only the Amendment's first clause is about born people. That doesn't limit the rest of the Amendment to protecting only those who are born.[4])

91 **4** more about "The fact that one part of the Amendment is about

people who are born does not limit the rest of the Amendment to protecting only those who are born."

(Dobbs cites the belief that "a human person comes into being at conception" without distinguishing between the two words.[5])

94 **5** more about "Dobbs cites the belief that 'a **human person** comes into being at conception' without distinguishing between the two words."

(Roe v. Wade equated the time an unborn child becomes "recognizably human" with the time the child becomes a "person": "These disciplines variously approached the question in terms of the point at which the embryo or fetus became 'formed' or recognizably human, or in terms of when a 'person' came into being, that is, infused with a 'soul' or 'animated.'" 410 U.S. 113, 133(1973)

See also Wong Wing v. United States, 163 U.S.228, 242 (1896), "The term 'person' is broad enough to include any and every human being within the jurisdiction of the republic...This has been decided so often that the point does not require argument." Steinberg v. Brown 321 F. Supp. 741 (N.D. Ohio, 1970) "[o]nce human life has commenced, the constitutional protections found in the Fifth and Fourteenth Amendments impose upon the state a duty of safeguarding it".[6])

95 **6** more about "[o]nce human life has commenced, the constitutional protections found in the Fifth and Fourteenth Amendments impose upon the state a duty of safeguarding it"

(The word "persons" in the 14th Amendment means all who are IN FACT humans. Had it been only for those who are legally recognized as human, every deprivation of fundamental rights would be "constitutional" so long as a law or ruling questions whether its victims are "persons in the whole sense".

Even if reverence for all human life from fertilization were not *"deeply rooted in America's law and traditions", courts err in making that history the test of whether rights merit 14th Amendment protection, because the Amendment was created to end slavery. By the "deeply rooted" test slavery would still be legal, because freedom for slaves had zero historical support. There is a* direct *test by which babies* do *merit 14th Amendment protection from abortion that does not require a romp through history. [7])*

7 more about "By the 'deeply rooted' test slavery would still be legal...There is a *direct* test by which babies *do* merit 14th Amendment protection from abortion..."

(Nor does it matter if the Amendment authors even wanted to protect all humans. In fact, it doesn't matter if there is a 14th Amendment. If law is not equal upon its operation on all humans, which is the very definition of the word "law" as developed by Samuel Rutherford's "Lex Rex" and Blackstone and adopted by America's founders, to that extent there is, by definition, no "rule of law", no restraint upon the "strong" to not tyrannize the "weak".

"To say that the test of equal protection should be the 'legal' rather than the biological relationship is to avoid the issue. For the Equal Protection Clause necessarily limits the authority of a State [or its judges] to draw such 'legal' lines as it chooses." Glona, 391 U.S. 73, 75 (1968)[8])

8 more about "To say that the test of equal protection should be the 'legal' rather than the biological relationship is to avoid the issue."

Genesis 3:17-19

Finding #9: *SCOTUS never denied that state personhood laws are strong evidence in an abortion case.*

(SCOTUS never said Personhood Laws are impotent. SCOTUS only said a personhood law by itself, without penalties, (that is, a law that says 'babies are people, but we won't stop their murderers') doesn't yet restrict abortion, so it can't yet generate a case.

Webster v. Reproductive Health Services 492 U.S. 490 (1989) did not say Missouri's personhood law had no power to topple Roe, but only "...until... courts have applied the [personhood] preamble to restrict appellees' [abortionists] activities in some concrete way, it is inappropriate for federal courts to address its meaning." - Webster, p. 491. (First paragraph)[1])

1 more about "It is inappropriate for federal courts to address [the] meaning...[of] a law that says 'babies are people, but we won't stop their murderers'."

(Similarly, Dobbs v. Jackson did not address whether Mississippi's clear "personhood" declarations called for outlawing abortion in every state, because those declarations were

not applied to any challenge to murdering those persons before 20 weeks, and because in oral arguments, Mississippi's AG explicitly denied he was asking SCOTUS to outlaw abortion. The issue of whether babies are people who should never be murdered, at any age, was not before the court.[2]

Far from treating a single state personhood law as impotent, Webster *said that were it coupled with a clear penalty, that "will be time enough to reexamine Roe, and to do so carefully". Concurrence by O'Conner, Id. at 526. How much more the uncontradicted findings of 38 states are enough to outlaw abortion as thoroughly as slavery!)*

99 **2** more about "The issue of whether babies are people who should never be murdered, at any age, was not before the court."

100 Ecclesiastes 2:22-24

101 ***Finding #10:*** *"Exceptions" do NOT Mitigate or Undermine Personhood Assertions.*

(Evidence of Life is not disproved by an "exception...for the purpose of saving the life of the mother" and/or by not charging the mother with being a "principal or an accomplice" to murder, as Roe's footnote 54 was generally interpreted, and as many prolifers still believe.[1]*)*

102 **1** more about "Evidence of Life is not disproved by an 'exception'..."

(Although the ideal of law is equal protection of all humans, human law is as imperfect as humans. The very legal, political, and Biblical necessity of "innocent until proved guilty" illustrates the inability of human courts to equally protect every human, without that inability proving crime victims are not fully human!

Practical reasons to prosecute abortionists but not moms are (1) to get moms to testify against abortionists, and (2) the greater ease for juries of imputing culpability to adult doctors than to mothers suffering varying degrees of youth, deception (by culture, schools, pastors, and judges) and pressure (by family and fathers).

Legal and moral reasons for a "life of the mother" exception are that (1) while babies have a fundamental right to live, so do mothers; and (2) while we are inspired by people who give their lives for others, we can't require them to by law. Even our Good Samaritan laws, requiring people at accident scenes to help, are sparse and inconsistent.

It would be hypocritical to charge aborting moms with being accessories to murder, without first charging judges. The degree to which laws fail to give "equal protection" to all humans is no evidence of the degree to which people are not humans. Such a legal theory is absurd, unknown outside Footnote 54,[2] cannot be taken seriously, and certainly merits no attention as it faults laws for being no better than is humanly possible.)

103 **2** more about "Such a legal theory is...unknown outside Footnote 54"

104 Luke 12:22-34

107 **Part 4: Conclusions**

108 ***Finding #11:*** *The 14th Amendment requires this state, as every state, to thoroughly outlaw abortion. Restrictions of abortions to save mothers cannot be reviewed by strict scrutiny,[1] even though the safety of mothers is a fundamental right, because the safety of their babies is an equally fundamental right. Legislatures can best delineate the most life-saving balance of harms.[2]*

109 **1** more about "Restrictions of abortions to save mothers cannot be reviewed by strict scrutiny"

111 **2** more about "Legislatures can best delineate the most life-saving balance of harms."

(The indecision of judges over whether babies of humans are humans does not neutralize the consensus of fact finders that babies are fully "human persons" – an abstention does not cancel an "aye".

That consensus makes abortion legally recognizable as killing innocent human beings, which is legally recognizable as murder, which was never constitutionally protected or legal, but is what even Roe correctly said "of course" requires abortion's legality to end.

No judge can squarely address this evidence and keep abortion legal because the 14th Amendment doesn't let any state legalize the tyranny of any class of humans over any other.[3] It made irrelevant whether baby killers "rely" on killing babies.[4] The only constitutional way to keep baby murder legal would be to repeal the 14th Amendment, returning to states the power of majorities to tyrannize minorities. Of course, that would make slavery legal again.)

112 **3** more about "the 14th Amendment doesn't let any state legalize the

tyranny of any class of humans over any other"

114 **4** more about "(The 14th) made irrelevant whether baby killers 'rely' on killing babies"

(The prohibition of tyranny over any class of humans by any other has greater authority than that of the Constitution: it is also the command of the Declaration, which lays out the purpose of the Constitution, and rests its own authority on the revelation of God[5] in the Bible.[6] Without God it is impossible to understand fundamental rights,[7] as courts have so magnificently demonstrated by so often confusing abominations for rights, decimating those whom Jesus said "forbid them not to come unto Me", denying that He created them, murdering 17% of them, sodomizing 20% of the survivors, and censoring 100% of His teachings in schools.[8] That began with the development of the principles of "Substantive Due Process" in United States v. Cruikshank 92 U. S. 542 (1876), which were applied in that case to acquit a white mililtia of murdering "as many as 165" blacks for the "crime" of holding a meeting with more than four people.[9])

115 **5** more about "the Declaration...lays out the purpose of the Constitution, and rests its own authority on the revelation of God"

115 **6** more about "the Declaration...rests its own authority on the revelation of God *in the Bible*"

119 **7** more about "Without God it is impossible to understand fundamental rights"

124 **8** more about "Courts have so often confused abominations for rights...murdering 17% of [the children Jesus loves], sodomizing 20% of the survivors, and censoring 100% of His teachings in schools"

125 **9** more about "developed in *United States v. Cruikshank,* 92x` U. S. 542 (1876) were the principles of 'Substantive Due Process' which were applied in that case to acquit a white mililtia of murdering 'as many as 165' blacks for the 'crime' of holding a meeting with more than four people"

127 Matthew 21:18-22

128 ***Finding #12:*** *Judicial Interference with Constitutional Obligations is Impeachable.*

(Any state judge interfering with this state's compliance with the 14th Amendment and its ancient authority to protect its people[1] –

the central reason governments exist, is an accessory to genocide according to the uncontradicted consensus of court-recognized fact finders, and is guilty of exercising the legislative function, in order to perpetuate genocide through an unconstitutional ruling, which exceeds the judicial powers given by the state Constitution, which is Malfeasance in Office, a ground of impeachment.[2])

129 **1** more about "its ancient authority to protect its people – the central reason governments exist...."

132 **2** more about "exercising the legislative function, in order to perpetuate genocide...exceeds the judicial powers given by the state Constitution, which is...a ground of impeachment"

(Should any federal *judge so interfere, this state appeals to its congressional delegation to examine similar grounds for disciplinary action.[3])*

133 **3** more about "similar grounds for disciplinary action"

(This state also appeals to its congressional delegation to exercise its life-saving and rights-protecting authority under Section 5 of the 14th Amendment whose plain words give Congress, not courts, the authority to correct state violations of rights,[4] which subsumes the authority to define their scope and balance competing interests, while the "privileges and immunities" clause identifies as protectable rights those listed in the Constitution.)

133 **4** more about "Section 5 of the 14th Amendment give[s] Congress, not courts, the authority to correct state violations of Rights"

134 Job 2:5, 1 Kings 22:20-22

135 What Happened to Unalienable Rights, and How to Get Them Back

136 Luke 12:4-5, Job 41:10, Proverbs 9:10

137 1. Landmark Abomination Cases

158 Luke 11:5-9

159 2. The satanic "church" lawsuit & Islamic Female Genital Mutilation: empowered by court "neutrality" about religion

168 Job 3:25, Revelation 21:8, 1 Peter 1:7

169 3. 'Substantive Due Process': how SCOTUS usurped the Constitution's Authority to Define Rights, and Congress' Authority to Enforce Rights, into its own authority to reclassify abominations as 'rights'

~~~~~~~~~~~~~~~~~~~~especially unfinished from here
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John 10:10 The thief cometh not, but for to steal, and to kill, and to destroy: I am come that they might have life, and that they might have it more abundantly.

James 1:5 If any of you lack wisdom, let him ask of God, that giveth to all men liberally, [without finding fault]; and it shall be given him. 6 But let him ask in faith, nothing wavering. (Gr. διακρινω not withdrawn from, ie. by lack of support from actions, or opposed, ie. by indecision)

Matthew 21:21 ...If ye have faith, and doubt not (Gr. διακρινω) **...ye shall say unto this mountain, Be thou removed, and be thou cast into the sea; it shall be done. 22 And all things, whatsoever ye shall ask in prayer, believing, ye shall receive.**

Abortion steals futures and families, kills the most innocent, and destroys economies and nations. Abortion isn't the only Thief. The voices which self-censor to indulge their own inaction deny themselves, not just their neighbors, Life More Abundantly.

If you are not satisfied with life *less* abundantly – ongoing slaughter of innocents – you won't be satisfied now that the fate of babies is decided by the "value" that voters place on little people. You will keep searching for a strategy to end *all* the slaughter: to both outlaw it, and make it unthinkable to all but the worst of murderers.

If you believe you *will* reach every good goal you pursue with all your being, Matthew 21:21-22, you won't be turned from ending the slaughter in every state by experts who tell you that is impossible which rules out a strategy for achieving it. You will search until you find God's way to do God's will.

You won't say "I'm not smart enough to question prolife legal authorities who advise giving up", if you believe James 1:5 which promises you all the wisdom you need to do good. Nor will you ever say you are not smart enough to read and understand legal briefs, court rulings, or to reason with lawmakers, lawyers, and prolife leaders, as necessary.

If you believe God, you will not excuse yourself from God's call because you can't talk well, like Moses, whom God answered "Who made mouths?" Exodus 4:11. Nor will you excuse yourself to God, saying you are but a child against the world's superbrains, like Jeremiah, whom God answered, "Stop saying that! It is MY words you will speak, and I am no child!" Jeremiah 1:6-8.

If you believe God, you will shine God's light wherever you find Darkness, Matthew 5:13-16. Since nothing is darker than murdering your own baby, you will seek God's help as you oppose this evil, and none of these excuses will withdraw you from action.

WARNING: READ AT YOUR OWN RISK. ROUGH READING AHEAD, THAT MAY KNOCK YOU FROM YOUR TV CHAIR.

Findings of Facts which No Judge can Squarely Address and Keep Abortion Legal

Part 1: Authority of Court-Recognized Fact Finders

Try to imagine how a judge,
reviewing a prolife law with these Findings of Facts,
would be able to dodge this evidence:

Statement of Facts #1. Court-recognized, court-tested Finders of Facts unanimously establish that unborn babies are fully human, which makes killing them legally recognizable as murder, which the 14th Amendment doesn't let *any* state legalize.[1]

No fact can be more legally established than the fact that "life begins" at fertilization, being the consensus of every American legal authority who has taken a position, in every category of court-recognized finders of facts: juries,[2] thousands of expert witnesses who were not contested,[3] 38 state legislatures,[4] individual judges,[5] and Congress.[6]

No legal authority has ruled that any unborn baby of a human is *not* in fact a human person, or that "life begins" *any later* than fertilization.[7]

No state can keep abortion legal now that this fact is established. This is so obvious that even Roe v. Wade said "of course", and the lawyer for the abortionists agreed.[8]

For most public issues, disagreement is over facts.[9] The only disagreement about abortion is between unanimous fact finders and those who don't care about facts.[10] A court that won't address the facts that justify and necessitate a law, or hear evidence of those facts, violates Due Process and has no legitimate

jurisdiction to review that law.[11] 34 words, 1st par. 185 total.

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1 More about "...murder, which the 14th Amendment doesn't let *any* state legalize"

The legal goal of outlawing abortion in every state is dismissed by every SCOTUS justice and by most prolife lawyers, (quotes follow), but that goal has failed only by ignoring this consensus of fact finders - "the Mammoth in the Room". It has been successfully ignored only because prolife lawmakers have not placed it in Findings of Facts where judges were forced to address it.

The Constitution isn't as bad as prolifers think: Schluetter.

Debating with Judge Bork, Law professor Nathan Schluetter at Hillsdale College wrote in 2003: "It is surprising...that on this most central constitutional and moral issue [that babies are in fact people so we shouldn't murder them] a preponderance of pro-life advocates and legal scholars continually misinterpret the Constitution. According to them, a proper reading of the Constitution would [go no farther than to] reject [Roe's] concept of a privacy right to abortion, and thus return the nation to the pre-Roe status quo in which the decision of when, whether, and how to regulate [murder] was left to the states. In offering this 'restoration interpretation,' they ignore or reject the proper interpretation, which would extend the [right to life] of the Fourteenth Amendment to unborn persons [which will outlaw baby killing in every state]. This is what I will call in this essay the 'unborn person interpretation.'

"They continue to do this despite the fact that both the majority in *Roe* and the appellants to the case conceded that if the personhood of the unborn [or, the fact that babies of people are real people] could be established, 'the [abortionist's] case, [for legalizing baby killing in every state] of course, collapses, for the fetus' right to life would then be guaranteed specifically by the Amendment [thus *outlawing* abortion in EVERY state].'

"To gauge the pervasiveness of the restoration interpretation among life advocates, one need only consult [a past issue of this publication]. Forty-five leading pro-life advocates, including Gary Bauer of the Family Research Council, James Dobson of Focus on the Family, Clarke Forsythe of Americans United for Life, Wanda Franz of the National Right to Life Committee, and Ralph Reed of the Christian Coalition, signed a much heralded joint 'Statement of Pro-Life

Principle and Concern' published in *First Thing*s in 1996 in which the primary legal complaint was made that *Roe* 'wounded American democracy' by removing the issue of abortion from 'democratic concern.'

"The statement suggested two legal remedies: first, the Supreme Court could reverse *Roe*, returning the issue to the states; second, the nation could pass a constitutional amendment that would extend Fifth and Fourteenth Amendment due process protection to unborn persons.

"The statement does not even hint at the possibility of a Supreme Court ruling that would extend due process and equal protection to unborn persons [based on the indisputable fact that babies are real people, requiring no additional legal recognition of their right to life]. The *First Things* statement seems to reflect the unanimous opinion of those Justices on the Supreme Court who have urged reversing *Roe*, not one of whom has attempted to make or even respond in their opinions to the unborn person interpretation. [Not even the most liberal justices have *denied* that babies are real people, yet not even the most conservative justices consider the indisputable evidence worth mentioning.]

This misunderstanding doesn't just threaten babies. "However well-intentioned, the arguments of the restoration advocates are usually grounded in an epistemological skepticism that is alien to normal constitutional interpretation and harmful to the political morality on which free government is based."

2 More about **Juries/court-recognized Fact Finders.**

When juries ruled that babies are real people. When prolifers blocked abortionists' doors before 1993, the only seriously disputed fact issue at trial was whether human lives were saved. The earliest juries ruled that they were, and acquitted, so judges stopped letting juries hear that defense. Abortionists were so scared of juries thinking babies are people, that when a judge decided to let the jury hear that defense, the abortionist would drop the prosecution.

A law school journal reports: "After the court ruled that it would allow the [Necessity] Defense to go to the jury, the Women for Women Clinic dropped the prosecution. If the defense is permitted, evidence is introduced that life begins at conception. This evidence is rarely contradicted by the prosecution, which is merely proving the elements

of criminal trespass. [Except for the one element that matters, and the only contested trial issue: whether lives were saved.] Rather than risk such a precedent, many clinics prefer to dismiss. In fact, defense counsel have admitted that their intent is to bring the abortion issue back before the United States Supreme Court to consider the very question of when life begins, an issue on which the Court refused to rule in Roe..." (The Cincinnati Law Review footnote analyzes the case of *Ohio v. Rinear*, No. 78999CRB-3706 (Mun. Ct. Hamilton County, Ohio, dismissed May 2, 1978)

Juries don't usually give reasons for their verdicts. I (Dave Leach, author) was a defendant in such a trial, where the judge allowed the jury to hear the defense, the abortionist let the case proceed, and the jury acquitted. *State v. Brouillette, et al, Johnson County,* Iowa, 1989. 155 of us were arrested January 26, 1989 for blocking the doors of the Emma Goldman clinic in Iowa City, Iowa. Rather than pack all 155 in the court room, 16 of us were tried in the first batch. It was assumed that what happened to them would drive what happened later to the rest; especially since J. Patrick White, the prosecuting county attorney, had told newspapers that if the first 16 were acquitted there is no way he would prosecute the others.

How God provided an official record of the jury's reasons. But after the jury acquitted the first 16, White refused to dismiss, and that is the only reason we have an official court record documenting that the Defense of Justification was the only issue before the jury. The jury didn't say so, but the judge did, in his ruling dismissing the remaining charges. That ruling is so helpful, and the difficulty of getting an official record of a jury's reasons so great, that God must be credited and thanked for presumably hardening the heart of the prosecutor so the judge had to rule.

The judge wrote that both sides stipulated to (officially agreed about) the facts. "Each Defendant stipulated to his or her identity; to entering and remaining upon public property; and to failing to leave said public property after being notified and requested to vacate by persons whose duty it was to supervise the use and maintenance of this property. By this stipulation, the sole element of the offense of Criminal Trespass which remained to be proven was **whether each defendant acted without justification**. [Violating a minor offense, like trespassing, is "justified" when it is "necessary" to save lives.] The verdict of the jury indicates the State failed to prove, beyond a reasonable doubt, **the one essential element of the charge which**

remained in issue.

"In a trial of the remaining 138 Defendants, [one of the 155 arrested was juvenile and was not charged], a jury would be presented with this identical issue. So the remaining charges should be dropped by the theory of Issue Preclusion - if Joe is found innocent after doing something, Jack should be after doing the same thing.)"

Another such case may be *Northern Virginia Women's Medical Center v. Balch,* 617 F.2d 1045, 1048-49 (4th Cir. 1980) which refers to two unreported cases where "necessity" led to acquittals. But it is not clear whether it was a jury or "bench" trial.

ℬ More about "Expert Witnesses/court-recognized Fact Finders"

Doctors & geneticists routinely testified in "Operation Rescue"-type door-blocking trials. See note #2: "If the defense is permitted, evidence is introduced that life begins at conception. This evidence is rarely contradicted by the prosecution," The evidence is presented by expert witnesses – doctors, geneticists, etc.

When a world famous geneticist flew from France to Wichita. A case widely reported among prolifers was when Elizabeth Tilson, a defendant who blocked an abortion door so mothers couldn't go inside to kill their babies, flew in a world famous geneticist from France to Judge Paul Clark's Wichita court. There was no jury, but a "bench" trial over which Clark presided. His lengthy ruling, acquitting Tilson, is reported in Appendix H of "How States can Outlaw Abortion in a Way that Survives Courts". A paperback is available at Amazon; a free PDF is posted at www.Saltshaker.us.

How Courts Dodged Overwhelming Evidence of Life. The defense raised in virtually all those trials of all those 60,000+ arrested life savers was based on American law, not religion. I know of no case where anyone asked for a religious exemption from letting the slaughter continue, or who gave Bible verses as the reason they should be acquitted.

And yet courts routinely dismissed legitimate legal defenses as being exclusively religious.

Surely the most notorious example was Elizabeth Tilson's defense on July 20, 1992. She even flew in the world's top geneticist from France, Dr. LeJeune, to testify about "when life begins". District Judge Paul Clark, summarizing the defense and *ruling in her favor*, did

not indicate religion was *any* part of the defense. (See excerpts in Appendix H, p. 145.) Yet the Kansas Court dismissed all that world-class scientific evidence as a "moral or ethical belief" of some dowdy no-account religious kook housewife who expects law to bow to her superstitions.

> If recognized as [a] defense in [a] criminal case, justification by necessity defense only applies when [the] harm or evil which [the] defendant seeks to prevent by his or her own criminal conduct is legal[ly recognized] harm or evil **as opposed to moral or ethical belief of individual defendant....**defendants did not engage in illegal conduct because they were faced with a choice of evils. Rather, they intentionally trespassed on complainant's property **in order to interfere with the rights of others**.... *City of Wichita v. Tilson*, 253 Kan. 285 (1993)

But what about the world-class testimony that human beings were being slaughtered? Completely irrelevant, the court said. We have to follow "law", not some frowsy housewife's "moral or ethical belief":

> In a criminal prosecution for trespass upon the property of an abortion clinic, the defense of justification by necessity is inapplicable and **evidence of when life begins is irrelevant.** The **admission of evidence of when life begins in such an action was error by** the trial court....Judge Paul Clark held that...the defendant was absolved of any criminal liability for her actions, based upon the necessity defense [which] justified her trespassing upon the Clinic property **for the purpose of saving a human life.** At trial, over the objections of the City, the defendant was allowed to introduce expert testimony on the question of when life begins. The City did not attempt to controvert such evidence but instead took the position that the evidence was **inadmissible because it was irrelevant.** *City of Wichita v. Tilson*, 253 Kan. 285 (1993)

Her REAL motive, said the Court, was not "saving a human life" as documented by the world's leading expert on genetics at all, but was "to interfere with the rights of others" according to some individual's "moral or ethical belief"

This is not an isolated "straw man" misconstruction of a serious legal defense. Appellate courts did it routinely. Appendix F of my book,

linked in Note 3, gives examples. If we could trust courts to never do that again, this book could be a lot shorter.

Doctors testifying as official Expert Witnesses in "rescue" trials was so routine that even I had one in my own trial. I found a doctor to testify in my own trial after I was arrested for sitting in front of a Planned Barrenhood door to prevent mothers from coming in to murder their babies. It was after a workshop put on by "rescuers" to educate people who had never been inside a courtroom how to conduct ourselves in court, since few of us could afford a lawyer and lawyers successful in such cases could not be found. Doctors willing to testify for free were plentiful. Their testimony was routine in "rescue" trials, even after judges stopped allowing juries to hear them. There were not just a few trials. In about 1992 Operation Rescue reported that there had been over 60,000 arrests of door-blockers.

After judges stopped letting juries listen to the witnesses, doctors still testified, but after sending the jury out. It is called a "proffer" of evidence; the judge rules that it is irrelevant, but he will let the evidence go into the record so that it will be there for any appeal.

Updated science is summarized by the Illinois Right to Life in their amicus brief filed in Dobbs v. Jackson. "Dr. Alfred Bongiovanni, University of Pennsylvania School of Medicine, in his testimony in connection with the 1981 hearing on Senate Bill 158, the Human Life Bill, see infra at 15-16, concluded, **'I am no more prepared to say that these early stages [of development in the womb] represent an incomplete human being than I would be to say that the child prior to the dramatic effects of puberty . . . is not a human being.** This is human life at every stage.' Cited in House Resolution No. 214, https://perma.cc/6XRG-L2C8.

The Consensus of Biologists. "b. An overwhelming majority of biologists recognize that a human's life begins at fertilization. A recent international study involving 5,577 biologists from 86 countries who work at 1,061 top-ranked academic institutions confirmed the scientific consensus on when life begins. The study asked biologists to confirm or reject five statements that represent the view that a human's life begins at fertilization. The majority of the biologists in the study identified as liberal (89%), pro#choice (85%), and non-religious (63%). 5,337 biologists (96%) affirmed at least one of the statements and only 240 participants declined to affirm any statements (4%).

The study participants were also asked to answer an essay question: "From a biological perspective, how would you answer the

question, 'When does a human's life begin?'" Most biologists (68%) indicated fertilization. Thus, while in Roe, the Court found that experts could not arrive at any consensus at that point in the development of man's knowledge, that is no longer the case." [American participants included biologists from Harvard University, Princeton University, Stanford University, and Yale University. See When Does Life Begin?, Illinois Right to Life, https://perma.cc/U99P-4Y6C. Steven A. Jacobs, Balancing Abortion Rights and Fetal Rights: A Mixed Methods Mediation of the U.S. Abortion Debate, Knowledge@Uchicago, 2019, https://perma.cc/GZT2-8JDN

An Official Senate Report. "c. Legislative hearings on when life begins marshalled scientific evidence that life begins at fertilization. During hearings conducted by the Senate Judiciary Subcommittee on Senate Bill 158, the "Human Life Bill", numerous scientific experts testified regarding when life begins. The Official Senate Report concluded that: "Physicians, biologists, and other scientists agree that conception marks the beginning of the life of a human being – 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." [Report, Subcommittee on Separation of Powers to Senate Judiciary Committee S-158, 97th Congress, 1st Session 1981, 7] In the hearings, Dr. Jerome Lejeune testified that "[l]ife has a very, very long history, but each individual has a very neat beginning – the moment of its conception" because "[t]o accept the fact that after fertilization has taken place a new human has come into being is no longer a matter of taste or opinion ... it is plain experimental evidence." S-158 Hearings, April 23, 1981 transcript, 18. [S-158 Hearings, April 23, 1981 Transcript, https://perma. cc/6DCT-UT4P.]

No alternative theories on when a human's life begins in scientific literature."Experts from leading institutions have testified that there are no alternative theories on when a human's life begins in the scientific literature. Dr. Hymie Gordon, Professor of Medical Genetics and physician at the Mayo Clinic, testified: "I have never ever seen in my own scientific reading, long before I became concerned with issues of life of this nature, that anyone has ever argued that life did not begin at the moment of conception and that it was a human conception if it resulted from the fertilization of the human egg by a human sperm. As far as I know, these have never been argued against." Id. at 52. This lack of any published, let alone generally accepted,

alternative scientific theories was also attested to by Dr. Micheline Matthew-Roth, a principal research associate in the Department of Medicine at the Harvard Medical School. Id. at 41-42. ...

A few disagree but without even trying to invoke science, medicine, or facts. "While some oppose the consensus view that human life begins at fertilization, the few counter-arguments made are philosophical or ideological, rather than scientific or fact-driven. In point of fact, no viable alternative to the consensus view has been propounded."

Even baby killers admit they are killing baby humans. "d. Even doctors who perform abortions and proponents of abortion rights admit fetuses are human beings. Many practitioners of abortion and supporters of abortion rights acknowledge human life begins at conception.[26] For example, when abortion doctor Dr. Curtis Boyd was interviewed, he acknowledged with respect to abortion: 'Am I killing? Yes, I am. I know that.'[27] Abortion rights supporter and ethicist Peter Singer has written that being 'a member of a given species is something that can be determined scientifically, by an examination of the nature of the chromosomes in the cells of living organisms. In this sense there is no doubt that from the first moments of its existence an embryo conceived from human sperm and eggs is a human being.'[28]

e. Views opposing the position that human life starts at fertilization are unscientific and ideological.

"While some oppose the consensus view that human life begins at fertilization, the few counter-arguments made are philosophical or ideological, rather than scientific or fact-driven. In point of fact, no viable alternative to the consensus view has been propounded.

"...Ultimately, opposing arguments to the scientific consensus that a human's life begins at fertilization are fallacious or focus on aspects of biology that are not relevant to the biological classification of human beings."

26. Derek Smith, Pro-Choice Concedes: Prominent Abortion Proponents Concede The Barbarity Of Abortion, Human Defense Initiative, Nov. 7, 2018, https://perma.cc/GXH8-MAUU. See also, A New Ethic for Medicine and Society, California Medicine, Sep. 1970.

27. KVUE Austin Interview of Dr. Curtis Boyd, at 0:23, YouTube, Nov. 6, 2009, https://perma.cc/GYB2-3YFY.

The amicus filed in *Dobbs v. Jackson* (2022) by Melinda Thybault / Moral Outcry (www.supremecourt.gov/DocketPDF/19/19-1392/184968/20210726175018044_41206%20pdf%20Parker%20III%20br.pdf) "only" asked SCOTUS to do what SCOTUS did: overturn *Roe v. Wade* and

Planned Parenthood v. Casey. But her arguments support far more: outlawing abortion across America, not allowing *any* state to legalize murder. When she complains that modern America was stuck with 49-year-old science (there remains no scientific doubt that babies of humans are humans) that observation is still true. *Dobbs* could not have acknowledged modern science and turned over the fate of millions to ballot boxes.

> Supreme Court opinions [that are based on old science] should change when science advances. No society or court should be stuck in 1970's science. One simple example is that DNA testing was not even used in the courts until the mid-1980's. Anonymous DNA testing of the "infant life" in the womb and a DNA sample from the mother now shows that two separate humans exist. Sonograms, another example which started after Roe, convinced Dr. Bernard Nathanson, the founder of NARAL, as it should this Court, that he was wrong to kill innocent human life.
>
> (Court recognition of Life:) The Eighth Circuit Court of Appeals has already upheld South Dakota's law requiring abortionists (against their will and financial self-interest) to tell a woman that "abortion will terminate the life of a whole, separate, unique, living human being," defined as a member of the human species (Homo sapiens). Planned Parenthood v. Rounds, 530 F. 3d 724 (8th Cir. 2008) (en banc). The Eighth Circuit reviewed the voluminous evidence and determined there was adequate scientific evidence to uphold the law, which was "act based, not opinion or ideology, just as this Court has courageously done in recognizing the child in the womb as 'infant life' in Gonzales.
>
> (Several quotes from federal appeals courts about the need to reconsider Roe concluded with this zinger:) In sum, if courts were to delve into the facts underlying Roe's balancing scheme with present day knowledge, they might conclude that the woman's "choice" is far more risky and less beneficial, and the child's sentience far more advanced than the Roe Court knew. *McCorvey v. Hill* 385 F.3d 846 page 11 (5th Cir. 2004) (cert. denied)"

More about "State Legislatures/court-recognized Fact Finders"

"At least 38 states", (enough to enact a Constitutional Amendment), "have enacted fetal-homicide statutes, and 28 of those statutes protect life from conception." Hamilton v. Scott, 97 So. 3d 728 (Ala. 2012) The ruling's basis: "*State v. Courchesne,* 296 Conn. 622, 689 n. 46, 998 A.2d 1, 50 n.46 (2010) ('[As of March 2010], at least [thirty-eight] states have fetal homicide laws.' (quoting the National Conference of State Legislatures, Fetal Homicide Laws (March 2010) (alterations in Courchesne)"

Amicus filed in Dobbs by Illinois Right to Life:

[http://www.supremecourt.gov/DocketPDF/19/19-1392/148202/20200720191618686_19-1392%20BRIEF%20FOR%20AMICUS%20CURIAE%20ILLINOIS%20RIGHT%20TO%20LIFE%20IN%20SUPPORT%20OF%20PETITIONERS.pdf]

> "Fetuses are recognized as human persons in numerous contexts: (1) laws that restrict abortion at some point in fetal development, (2) fetal homicide laws, (3) prohibitions against capital punishment imposed upon pregnant women, (4) recovery for fetal deaths under wrongful death statutes, (5) the rights of preborn children under property law, (6) legal guardianship of prenatal humans, [See Paul Benjamin Linton, The Legal Status of the Unborn Child Under State Law, 6 U. St. Thomas J.L. & Pub. Pol'y, 2011, https://perma.cc/XB8E-G375.] (7) the rights of preborn children to a deceased parent's Social Security and Disability benefits[SSR 68-22: SECTION 216(h)(3)(C). – Relationship – Status of Illegitimate Posthumous Child, Social Security Administration, https://perma.cc/W3TR-89L9.], and (8) the rights of inheritance of posthumously born children.[Alea Roberts, Where's My Share?: Inheritance Rights of Posthumous Children, American Bar Association, Jun. 13, 2019, https://perma.cc/36VN-HZZ8] Despite the plethora of contexts in which fetuses are recognized as persons under the law, this Court has yet to recognize the personhood of preborn humans.
>
> "**b. States are increasingly proposing and enacting laws protective of unborn human beings even when abortion is curtailed as a result.**
>
> "Today, 43 states have enacted laws protecting prenatal humans although abortion is thereby restricted. All but one restrict abortion access at the earliest point permissible by Roe (viability), and states have recently more emphatically asserted a state interest in the lives of previable human beings by seeking to protect them: (1) after the sixth week since that is known to be the point at which a fetus' heart first beats (AL HB314; IA SF359) and (2) after the twentieth week since that has been found

to be the point at which a fetus can first feel pain (OH SB 127)."

States don't unanimously protect the unborn, but no state finds that unborn babies are *not* human persons. Plus, 38 states is enough to ratify a Constitutional Amendment. (Not that they should: as other Findings observe, there is already more than enough consensus of fact finders to require outlawing of abortion in every state; and the consensus of fact finders is actually a stronger legal reason than a constitutional amendment, since no other Amendment was ratified to establish a fact.)

Illinois Right to Life:

> Changes in the law have further eroded the underpinnings *Roe*. Those changes [legally] recognize the human fetus as a human being.
>
> a. Enactment of fetal homicide laws in almost 80% of states demonstrates that, outside of the abortion context, a human fetus is legally recognized as a human being.
>
> In its 1973 *Roe* decision, the Court stated, "the unborn have never been recognized in the law as persons in the whole sense." *Roe*, 410 U.S. at 162. This has changed markedly since that time. Legislators in 38 of 50 states have enacted laws that criminalize the intentional killing of a human fetus. These "fetal homicide" laws, which only apply to non-abortive killings, recognize that preborn human fetuses are human beings entitled to protection under the law. In this context, a majority of states today recognize a human fetus as a human person from the moment of fertilization.

The *fact* that babies are people is established by this consensus of states – of all who have taken a position. (Not even the "bluest" state asserts that they are not people, or that "life begins" any later than fertilization.) This affirmation is not diminished by the failure of some states to protect babies from abortion. The response to facts by humans is an unreliable way to document facts. But regarding this fact, the verdict is unanimous.

5 More about **Judges: court-recognized Fact Finders**

One example is Judge Paul Clark: see footnote 3. Another is Justice Dimond in Alaska: *Cleveland v. Municipality of Anchorage,*

Alaska, 631 P.2d 1073, 1084:

> (Concurring:) I empathize with the defendants' sorrow over the *loss of human lives* caused by abortions. I believe the United States Supreme Court *burdened this court with a tragic decision* when it held in Roe...that the word "person, as used in the fourteenth amendment, does not include the unborn...", and that states cannot "override the rights of the pregnant woman" by "adopting one theory of life."
>
> I do not agree with the Court's conclusion that a state's interest in potential life does not become "compelling" until the fetus has attained viability. It stated its explanation for this conclusion as follows:
>
> With respect to the State's important and legitimate interest in potential life, the 'compelling' point is at viability. This is so because the fetus then presumably has the capability of meaningful life outside the womb. State regulation protective of fetal life after viability thus has both logical and biological justifications." (410 U.S. at 163, 93 S.Ct. 731-32, 35 L.Ed.2d at 183) As Professor Tribe indicates, "One reads the court's explanation [of the magic line called "viability"] several times before becoming convinced that nothing has inadvertently been omitted." (Tribe, Forward to *The Supreme Court 1972 Term*, 87 Harv.L.Rev. 1. 4 (1973](footnote omitted]). I agree with Professor Tribe when he states, "Clearly, this (analysis] mistakes a definition for a syllogism", and offers no reason at all for what the Court has held. (Id., quoting Ely, *The Wages of Crying Wolf: A Comment on Roe v. Wade*, 82 Yale L.J. 920, 924 (1973](footnotes omitted]).
>
> In effect, the Supreme Court held that because there is no consensus as to when human life begins it can act as if it were proven that human life does not begin until birth so as to preserve to women the right to make their own decision whether an abortion takes a human life or not. It would make more sense to me if, in the face of uncertainty, any error made were side in favor of the fetus, which many believe to be human life.
>
> The development of a zygote into a human child is a continual, progressive development. No one suggests that the born child is not a human being. It seems undeniable,

however, that human life begins before birth. As Professor Curran states:

> " '[T]he fetus one day before birth and the child one day after birth are not that significantly or qualitatively different – in any respect; Even outside the womb the newborn child is not independent but remains greatly dependent on the mother and others. Birth in fact does not really tell much about the individual as such but only where the individual is--either outside the womb or still Inside the womb.' (C. Curran, *Transition and Tradition in Moral Theology,* p. 209 (1919]). Similarly, viability does not mark the beginning of the truly human being.
>
> [V]iability again indicates more about where the fetus can live than what it is. The fetus immediately before viability is not that qualitatively different from the viable fetus. In addition viability is a very inexact criterion because it is intimately connected with medical and scientific advances. In the future it might very well be possible for the fetus to live in an artificial womb or even with an artificial placenta from a very early stage in fetal development.
>
> I join with those persons who believe that truly human life begins sometime between the second and third week after conception....

A dissent by Justice Mahoney said

> Until the Court decides when a fetus is a person, I see no reason to deny the defense of necessity to those who believe that the fetus is viable and is a person...At least it would get the issue squarely before the U.S. Supreme Court.... *Detwiler v. Akron,* C.A. No. 14385 at 22 (9th App. Dist. 1990)

If any judge in America has declared that protectable human life begins any later than fertilization, he did so without evidence, and without the agreement of Supreme Court justices. As Melinda Thybault's amicus brief in *Dobbs v. Jackson*(2022) observes. All nine justices know better, she demonstrates, by quoting them all calling the decision to abort "painful" and "difficult". Five of the nine added "moral". What could make such an allegedly "safe" "procedure", which isn't even expensive compared with most surgeries, either "painful" or "difficult"? Nothing can account for it, if babies are mere tumors or

animals. Take it out! It doesn't belong there! The only thing that can make the decision "painful" or "difficult" is that it is a decision to murder a healthy beautiful baby. That also makes it a "moral" decision. Removing a tumor or an animal is not a "moral" decision. By these words, all nine justices prove they know unborn babies of people are people.

> "The Supreme Court in Gonzales unanimously came to the conclusion that abortion is a 'difficult and painful decision,' at 159. Gonzales stated, 'Whether or not to have an abortion is a difficult and painful moral decision.' The five-person majority consisted of Justices Kennedy, Roberts, Thomas, Alito and Scalia. The four Justices in dissent, Justices Ginsburg, Stevens, Souter, and Breyer, also said: 'The Court is surely correct that, for most women, abortion is a painfully difficult decision.' The dissent left out the word 'moral' as part of the difficulty. Gonzales, FN 7, at 183, per Ginsburg, dissenting. Thus, all nine justices agreed that abortion is 'difficult' and 'painful.' Why? Because at some level, most people 'know' or 'sense' that abortion kills a human life."

Even abortionists admit they know better:

> Planned Parenthood has recently admitted through its chief physician in Missouri, that: "Sometimes the choice to end a pregnancy, even when it is a highly desired one, is a really difficult one for people", Dr. Eisenberg, Planned Parenthood St. Louis Clinic Director.23 Abortionist Lisa Harris states: "I know that for every woman whose abortion I perform, I stop a developing human from being born . . . Abortion feels morally complicated because it stops a developing human being from being born, which, of course, it does."24 (23 NBC News, nbcnews.com by Ericka Edwards and Ali Galarte, May 28, 2019. 24 "My Day as An Abortion Care Provider," Oct. 22, 2019, New York Times OP/ED.)

Mothers know better, although not necessarily in time. What "devastating psychological consequences" for mothers could follow successful removal of cancer?!! But Casey acknowledges they often follow an abortion, Melinda points out. "Many, many women are morally conflicted as this Court has recognized. Many women feel they have murdered their own child, with devastating consequences."

(The full sentence from Casey: “In attempting to ensure that a woman apprehend the full consequences of her decision, the State furthers the legitimate purpose of reducing the risk that a woman may elect an abortion, only to discover later, with devastating psychological consequences, that her decision was not fully informed.”)

Even the “Roe” of “Roe v. Wade” came to know better: “The affidavit of Norma McCorvey, the ‘Roe’ of Roe v. Wade describing her experience working in the abortion industry, which changed her mind about abortion and caused her to seek reversal of her case, is still on file in McCorvey v. Hill, 385 F. 3d 846 (5th Cir. 2004) (cert. denied) (Supreme Court Docket No. 04-967).” (“Cert. denied” is the Supreme Court’s way of saying they were too busy to deal with her.)

6 More about **“Congress: court-recognized Fact Finder”**

18 U.S.C. 1841(d) “...the term ‘unborn child’ means a child in utero, and the term ‘child in utero’ or ‘child, who is in utero’ means a member of the species homo sapiens, at any stage of development, who is carried in the womb.”

Finding #7 explains why this Personhood statement is as powerful as a Constitutional Amendment, and is NOT mitigated by section (c), as alleged by the National Right to Life Committee and by Republican Congressmen.

7 More about **“No American legal authority has ruled that...constitutionally protected ‘life begins’ any *later* than conception.”**

No American legal authority has ruled that constitutionally protected “life begins” any later than conception. Not even New York’s January 22, 2019 law.

This needs to be clarified because conservative news reported as if New York became an exception. Not that the law was harmless. It legalized abortions through birth when the abortionist alleged the baby would die soon anyway. It allowed non-doctors to kill babies. It repealed a law requiring a second physician to be present in case an infant was born alive and needed care.

But it didn’t define “person” to only mean human beings who are born, leaving unborn humans defined as non-persons. The articles I

found didn't exactly say that, but they implied that by reporting the definition of "persons", without reporting that the definition was not added by the new law but had been in the law for years, and without reporting the context of the definition which simply means that when the coroner investigates dead bodies found in his county, or in a jail, he will not investigate unborn babies. It also means a judge, when excluding the public from divorce or rape trials, will not exclude unborn babies.

The definition: " 'Person,' when referring to the victim of a homicide, means a human being who has been born and is alive."

As I said, the conservative reports didn't directly say the definition meant that unborn babies were defined as nonpersons, so most readers might not have thought about it. But because I had been claiming that no American legal authority had ever ruled that babies become real people at any later time than fertilization, I wanted to look into it to see if New York had created an exception.

You can verify that the definition was already in the law by reading the bill, and noting that the phrase is not underlined, which is how additions to laws are indicated. See [https://nyassembly.gov/leg/?default_fld=&leg_video=&bn=S00240&term=2019 &Summary=Y&Actions=Y&Committee%26nbspVotes=Y&Floor%26nbspVotes=Y&Memo=Y&Text=Y]

You can also verify it by reading the law as of 2016, which includes that definition. [https://law.justia.com/codes/new-york/2016/pen/part-3/title-h/article-125/125.05/]

You can read the Breitbart report at [https://www.breitbart.com/politics/2019/01/24/8-shocking-facts-about-new-yorks-radical-abortion-law/]

You can read the Townhall report at [https://townhall.com/tipsheet/laurettabrown/2 019/01/23/new-york-passes-extreme-abortion-legislation-on-the-anniversary-of-roe-v-wade-n2539902]

The law had previously read "Homicide means conduct which causes the death of a person [or an unborn child....]" The 2019 law deleted the part in brackets.

The definition previously had two more paragraphs which the 2019 law deleted. They defined the terms "abortional act" and "justifiable abortional act" which had been used in the now deleted law against late term abortion.

This point is worth clearing up because it is a very strong, important argument for the legal recognizability of all unborn babies as humans/persons, and of all abortions as murder, that no American legal authority has ruled that constitutionally protected "life begins" any later than conception. Not one.

Not even *foreign* legal authorities support any right to abortion. 141 International Legal Scholars submitted an amicus brief in the *Dobbs v. Jackson* case declaring that "Whatever role international law plays in evaluating abortion regulations in the United States, it offers no basis for the existence of a human right to abortion." (http://www.supremecourt.gov/DocketPDF/19/19-1392/185170/20210729071535904_19-1392%20Amicus%20Brief%20of%20141%20International%20Legal%20Scholars.pdf) "The minority of States that choose to allow elective abortion impose a standard gestational limit of twelve weeks, which is more restrictive than Mississippi's Gestational Age Act."

"If the Court chooses to consult international law in this case, it will find there is no treaty that recognizes a so-called human right to abortion, nor has such a right been established through customary law. To the contrary, the practice across all regions demonstrates a consistent State prerogative to protect unborn life. Nor has any international court declared the existence of an international right to abortion, even in regions with the most permissive abortion regimes. Third-party actors seeking to invent a new right to abortion err when interpreting key international instruments, such as the Convention on the Elimination of Discrimination against Women, the Rome Statute, and the International Conference on Population and Development. The clear language in those documents defies any attempt to repurpose them to create an international human right to abortion.

"On the other hand, provisions recognizing the unborn child as a rights-holder can be found in many international human rights instruments, including the American Convention on Human Rights, the United Nations Convention on the Rights of the Child, and the International Covenant on Civil and Political Rights. Most States choose to exercise the prerogative to protect unborn life by regulating abortion much more strictly than in the United States. Even in the minority of States that permit elective abortions, most specify a gestational limit of twelve weeks. That limit is more restrictive than Mississippi's Gestational Age Act, which allows elective abortion until fifteen weeks' gestation, and then permits abortion only for medical emergencies or severe fetal abnormality."

Their conclusions were echoed by another international group, Center for Family and Human Rights (www.supremecourt.gov/DocketPDF/19/19-1392/185123/20210728132729071_CFam Amicus Brief Filed.pdf)

"The 2018 Mississippi Gestational Age Act banning most abortions after the 15th week of pregnancy, when the child in utero is

known to suffer pain from common abortion procedures, is fully consistent with International Covenant on Civil and Political Rights ratified by the United States, which presumptively protects the right to life of children in the womb (hereinafter, the "Covenant"), International Covenant on Civil and Political Rights, Dec. 16, 1966, S. EXEC. DOC. E, 95-2 (1978), 999 U.N.T.S. 171 (entered into force Mar. 23, 1976), as well as other human rights commitments and obligations of the United States.

"A careful reading of the text and history of the *Covenant* reveals that children in the womb were never excluded from the right to life, and that, more broadly, international law does not establish a human right to abortion in any circumstance, either through treaty obligation or by custom....

"Treaty law is the supreme Law of the Land and the Court has a constitutional responsibility to declare what the law is. The Court should make a finding of law that children in the womb are not excluded from the right to life under the *Covenant*, given the plain meaning of the text of the *Covenant* when it was ratified by the U.S., the interpretation of the *Covenant* by the Executive branch, and its implementation by other States who are party to the treaty, therefore, laws to protect children in the womb from being arbitrarily deprived of their right to life, regardless of viability, are consistent with the international human rights obligations of the United States."

8 More about "No state can keep abortion legal...even the lawyer for the abortionists agreed."

Here is the excerpt from *Roe's* Oral Arguments where the lawyer for the baby killers agreed that no state can keep abortion legal once the fact is established that babies of humans are humans from fertilization:

> Justice Stewart: Well, if – if it were established that an unborn fetus is a person, with the protection of the Fourteenth Amendment, you would have an almost impossible case here, would you not?
>
> Mrs Weddington, the attorney for baby killers: (Laughing) I would have a *very* difficult case.

Here is the paragraph in the Roe ruling that refers to the admission of the baby killers' lawyer:

> " '[Prolifers] argue that the fetus is a "person" within the language and meaning of the Fourteenth Amendment....If this suggestion of personhood is established, the [abortionist's] case, of course, collapses, for the fetus' right to life would then be guaranteed specifically by the [14th] Amendment [thus outlawing abortion in EVERY state]. The [abortionist's lawyer] conceded as much...."

This is the "collapse clause" in *Roe* which makes the fact that babies of humans are humans not only relevant, but dispositive (this fact alone requires outlawing of abortion in every state, without any further evidence or law). *Roe's* main holding was overturned, but this holding has never been disputed, and it is just as obvious ("of course") today as it was 50 years ago.

Because reality matters. Evidence matters. Facts matter.

The following arguments were made in the Amicus Brief filed in *Dobbs* by Illinois Right to Life. These facts were raised to demand overturn of Roe. But these facts demand more: the end of legal abortion in every state:

> In *Roe*, the Court based its "viability" standard on: (a) lack of a scientific consensus on when human life begins... It recognized that if a human fetus is a "person" under the Fourteenth Amendment, the case for unrestricted abortion would be untenable "for the fetus' right to life would then be guaranteed specifically by the Amendment." Id. at 157. ...Thus, in *Roe*, the Court's decision was based on its stated inability to locate in the record a scientific or legal basis for the humanity or personhood of the fetus, and the detriments posed by pregnancy and child-rearing. However, these conditions no longer prevail...
>
> ...*Roe's* recognition of a right to abort a previable pregnancy rests on the belief that the termination would not extinguish the life of a human person. [While *Dobbs'* passing to states the power to legalize baby slaughter rests on ignoring the extinguishing of the life of a human person.] That belief [and that "scrupulous neutrality" about infanticide] is no longer factually tenable given the current state of scientific knowledge concerning the origin and development of the human fetus.

Roe also rests on a determination that the humanity and personhood of a human fetus was not generally recognized in law. That legal context has changed as well. Among other changes in the law, fetuses are now protected as human beings under laws prohibiting fetal homicide.

Other laws, such as "heartbeat" laws and laws protecting against fetal pain, which are increasingly being enacted by the states, demonstrate their interest in protecting the youngest and most vulnerable humans.

Finally, changes in the laws and the availability of social services that support and protect pregnant women have ameliorated the plight of pregnancy and lessened the burden of child-rearing. All of these changes rob *Roe* [and legal abortion] of its factual and legal underpinnings....

Illinois Right to Life, http://www.supremecourt.gov/DocketPDF/19/19-1392/148202/20200720191618686_19-1392%20BRIEF%20FOR%20AMICUS%20CURIAE%20ILLINOIS%20RIGHT%20TO%20LIFE%20IN%20SUPPORT%20OF%20PETITIONERS.pdf

The Alabama Center for Law and Liberty [www.supremecourt.gov/DocketPDF/19/19-1392/184666/20210722141347032_Dobbs%20ACLL%20Amicus.pdf] amicus brief filed in *Dobbs* asked more than most other briefs: not just that Roe be overturned, but that all unborn babies be protected, which means no state could keep abortion legal:

C. The Court Should Not Only Overrule Roe but Also Hold That the Constitution Protects the Child's Right to Life.

Roe itself conceded that if an unborn child is a person, the case for abortion collapses, because the child's right to life would be specifically guaranteed by the Amendment. Roe, 410 U.S. at 156-57. The Court was correct in that regard.

The Fourteenth Amendment states, in relevant part: "nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." U.S. Const., amend. XIV, § 1 (emphasis added). See "Charles I. Lugosi, Conforming to the Rule of Law: When Person and Human Being Finally Mean the Same Thing in Fourteenth Amendment Jurisprudence, 4 Geo. J. L. & Pub. Pol'y 360 (2007)."

ACLL launches a strong attack on Roe's logic that "the unborn have never been treated by our laws as persons in the whole sense", and invokes the legal principle that what the Constitution meant, when it

was enacted, is what we should follow now until Americans choose to change it:

> Blackstone said, 'Natural persons are such as the God of nature formed us.' 1 Blackstone, Commentaries *123. 'The principle of Blackstone's rule was that "where life can be shown to exist, legal personhood exists.'" Craddock, supra, at 554-55.12 Given that the dominant view at the Fourteenth Amendment's passage was that life begins at conception, there is a strong case that the Fourteenth Amendment applies to unborn children.
>
> Thus, if all people are endowed with their Creator with the unalienable gift of life, [as the Declaration of Independence establishes as the premise of American Freedom] and if unborn children are people, [as every court-recognized fact finder that has taken a position has established] then the States may not deny equal protection of the laws to them.
>
> [It is a] fact that Americans viewed unborn children as people when they ratified the Fourteenth Amendment. As Roe itself conceded, establishing the suggestion of personhood would make [and therefore *has* made] the case for [legal] abortion['s] "collapse". Roe, 410 U.S. at 156-57.

If there are 39 witnesses to a murder, should a prosecutor bring forward only one? But legislatures have supported abortion bans with only their own testimony in their Findings. No 37 other states. No Congress. No thousands of uncontradicted expert witnesses. No dozens of juries. Only a trace of the overwhelming evidence for the claim that constitutionally protected "life begins" at fertilization.

For as long as prolifers do not justify their restrictions of abortion with the full range of evidence available from *all* states, the readiness of "blue states" to support baby murder will seem to "cancel" the laws against it in "red states", as if the clash is between competing *opinions* about "when life begins". It needs to be clarified that the consensus of all states *that have taken a position* is that protectable "life begins" at fertilization, and the only clash is between those who are horrified by these murders and those who don't care.

The premise of *Roe* is its statement of a *fact* that might arguably in the past have been reasonable, but it certainly is not now: that "the judiciary, at this point in the development of man's knowledge, is not in a position to speculate as to the answer...[to] the difficult question of when [constitutionally protectable human] life begins." So therefore "We need not resolve" the question!

49½ years later, *Dobbs v. Jackson* said almost the same stupid thing, with a lot less grounds for such breathtaking ignorance:

> "our decision is not based on any view about when a State should regard pre-natal life as having rights or legally cognizable interests...."

Babies need grownups to set facts before courts that will wean them off their apathy about mass murder.

9 More about **For other public issues, division is over facts.**

Climate Change activists treat it as an emergency which is significantly affected by human activity. Their opponents say climate change is in fact no emergency, and even if it were, human activity has negligible impact on it. Both sides rely on "science". (Of course pollution harms our health and quality of life, especially in the locality of the pollution, but most of that doesn't measurably affect climate.)

CRT controversy is entirely over facts. A very different set of facts of American history competes sometimes violently with the facts taught in America's schools in the not-that-distant past.

Immigration policy is a tug of war between claims of groups like NumbersUSA and Center for Immigration Studies that so much immigration drives up prices, drives down wages, destroys national security, etc. and peer-reviewed economics studies claiming slight economic benefit to citizens at most levels, from a slight increase in immigration.

Division over covid was all about facts. Masks work, no they don't. Vaccines save lives, no they cause millions of "excess deaths".

Can boys who want to be girls join girls sports team and compete fairly? Concern for Biblical morality is in the background, but the public arguing is over the *factual* differences between boy and girl bodies, and how much of that is equalized by drugs and surgeries.

Legalization of marijuana starts and sputters as facts emerge and are alleged about the impact on crime, auto accidents, on the health of users, and on the impact on holding down a job, which affects the whole economy.

10 More about **Disagreement about abortion is**

between unanimous fact finders and the indifferent.

See Finding #2.

Abortion controversy knows no comparable issue-driving dispute over whether babies of humans are real humans. There are practical difficulties in writing a "life of the mother" exception that will leave doctors free to save mothers who are truly endangered by their pregnancies without creating a loophole which babykillers will exploit, but there is no factual controversy about the full humanity of both mothers and their babies.

The fact is that there is no disagreement over the facts about preborn human life. The division is between authorities who rule babies are people, and courts and baby killers who say they don't care about the facts. That should be very persuasive to simply point that out, both to the public and in court. The result we should expect is for courts to outlaw abortion, and for the vast majority of the public to become revolted by baby murders.

Especially to the extent prolifers and lawmakers publicly acknowledge the love and guidance of God, the deeper part of the Bible- and Constitution-based strategy laid out later in this book.

And most especially if Bible believers study and support the transfer of rights protection from courts to Congress, as laid out in the 14th Amendment, Section 5, as explained by Justice Clarence Thomas in several dissents and concurrences, including in *Dobbs v. Jackson,* and reviewed later in this book with the assistance of several Amicus Briefs filed in *Dobbs.*

Unfortunately prolife legislatures have not cited this overwhelming evidence in court. Some litigants cite the expertise of new authorities that have not yet been tested in court, but not the tested evidence. This is a powerful resource that prolifers should use. In both kinds of courts.

Unfortunately prolife legislatures have not cited this overwhelming evidence in court. Some litigants cite the expertise of new authorities that have not yet been tested in court, but not the tested evidence. This is a powerful resource that prolifers should use. In both kinds of courts.

11 More about **Courts that won't address the facts that...necessitate a law...forfeit jurisdiction to review that law."**

Thus courts have no business reviewing abortion laws, for as long as they refuse to address the irrefutable evidence that babies of people are people. Such a court's only legitimate business is to enforce them.

But is that what *Dobbs v. Jackson* has already done? Hasn't SCOTUS gotten out of the abortion business and allowed states to outlaw abortion as thoroughly as their voters will permit?

Maybe SCOTUS will stay out of the way of saving lives. We should not assume they will stay out of the way when "life of the mother" exceptions come before them, where the right of mothers to live is not balanced by the right of babies to live because states are *still* not irrefutably establishing the full humanity of babies, while also not clearly defining the degree of danger to a mother where the doctor may remove the child without legal consequences.

Meanwhile state courts, even in prolife states, remain solidly in the way of saving lives, defying *Dobbs* which said courts should not block the choice of voters. Yet neither will state courts address the fact which justifies abortion restrictions: babies are people. Nor will state lawmakers, so far as I have read, and so far as my own conversations with lawmakers have accomplished, make that a central defense. Those **courts have no business blocking prolife laws for as long as they dodge the fact which demands them.**

Now let's consider longer range strategy, of how to get courts to outlaw abortion even in "blue states" (where abortion-supporting Democrats hold the majority). Blue state courts won't have any prolife laws to overturn. How can a case even be brought into a "blue state" court?

One possible way to get courts to outlaw abortion in blue states is for a red state to sue a blue state for slaughtering its citizens. A controversy between states goes directly to SCOTUS, as provided in the Constitution.

Another way would be if blue states still try to prosecute life savers for "sidewalk counseling" or for blocking doors, and the defendants raise these defenses. Prolife defendants have consistently made the humanity of babies central to their defense, but the arguments here are stronger than I have seen raised in any court.

The way provided in the Constitution is that courts stay out of deciding which humans get to murder and which must be slaughtered, but let Congress enact a "remedial" law (not a "substantive" law) and demand courts exercise their constitutional role of enforcing it.

Short of that, an indirect way abortion would be outlawed even in blue states through these arguments is simply that as they prevail in red states, they will educate lawmakers, judges, and the public, until hearts soften and murder becomes unthinkable again, and the Democrat party retires to "the ash heap of history".

The same principles apply to freedom of religious expression which courts outlaw, calling it "establishment of religion". Statements that are true should never be prosecuted, no matter how much they favor the Bible. Courts have no business challenging Christian expression if they are unwilling to investigate evidence of whether the Bible is true, and whether the human statements based on the Bible are true.

Will this open the floodgates to pagan expression? No, if the argument is made in court that the principles of the Bible are the outline of American law and freedoms, that no other religion or philosophy supports the fundamentals of our laws and freedoms, and that our government has a legitimate government interest in facilitating support for its own existence and for avoiding support for ideologies hostile to our laws and freedoms.

More about this in the final section of this book, complete with SCOTUS precedents, Justice Thomas dissents, and nuggets from the 140 Amici who filed briefs in *Dobbs v. Jackson.*

This is not a call for government censorship, but for driving hostile ideologies out of schools and subsidies, and making Freedom's enemies pay for their own attacks.

It will not close down discussion, but open the American Freedom forum wide, where Christians will be free to defend themselves and the public – and our children in public schools – will hear both sides. Maybe Christians will finally turn their gatherings into their own media as the Bible calls for.

Matthew 16:24 If any man will come after me, let him deny himself, and take up his cross, and follow me. 25 For whosoever will save his life shall lose it: and whosoever will lose his life for my sake shall find it. 26 For what is a man profited, if he shall gain the whole world, and lose his own soul? or what shall a man give in exchange for his soul?

Huh? How do we fit this with Jesus coming so we could have Life "more abundantly"?

How from our Cross is Life discovered?
How from such pain, can come such joy?
The Gospel tracts say Jesus suffered
so we'd need no works to employ.
Then what's this Cross we take and follow?
Is there no "work" for us to do?
My Cup of Love I'll lift and swallow.

I'll "lose" false life, and find Life True.

Finding #2: Courts Accept the Fact-Finding Authority of Legislatures, Juries, and Experts for the same good reasons their findings persuade the public.

SCOTUS must accept legislative findings of facts that are not obviously irrational. "..the existence of facts supporting the legislative judgment is to be presumed...not to be pronounced unconstitutional unless in the light of the facts made known or generally assumed it is of such a character as to preclude the assumption that it rests upon some rational basis within the knowledge and experience of the legislators...." *U.S. v. Carolene Products*, 304 U.S. 144, 152 (1938).[1]

Besides the court-recognized fact finding authority of legislatures, courts must conform their rulings to laws until such time as courts declare laws unconstitutional. No court has overturned the "unborn victims of violence" laws (based on "human babies are people") of 39 states and Congress, despite many challenges.[2]

To do so would require a court to positively affirm that human life does *not* begin until much later, which no legal authority has done, and for which no evidence exists.

Legislatures. Lawmakers are there by

the choice of a majority of voters. They are bombarded by information from experts. They are scrutinized by other lawmakers. Many are lawyers, some of whom are constitutional scholars and past or future judges. They set the salaries of judges, and have the power to hold impeachment trials of judges. Congress, the *national* legislature, scrutinizes Supreme Court justices.

Many Congressmen are equally qualified: 15 U.S. Senators have served on the Supreme Court, and more were nominated.[3]

Juries are tested for impartiality. They are educated by the most qualified expert witnesses available. They study as long as necessary to establish truth – sometimes for months.[4]

Expert Witnesses are the best experts money can buy, and they are scrutinized by the other side's experts.[5]

It is for strong reasons that the findings of court-recognized fact finders are as respected in court as in the Court of Public Opinion.[6]

20/300 words

1 More about "US. v. Caroline Products"

US. v. Caroline adds that the evidence in support of a law doesn't have to be overwhelming: "....the constitutionality of a statute predicated upon the existence of a particular state of facts may be challenged by showing to the court that those facts have ceased to exist.

...But by their very nature such inquiries, where the legislative judgment is drawn in question, must be restricted to the issue whether any state of facts either known or which could reasonably be assumed affords support for it." *U.S. v. Carolene Products,* 304 U.S. 144, 152 (1938)

This is a fair explanation of the "rational basis" test by which courts evaluate laws that restrict non-fundamental rights. When rights are called "fundamental", (an arbitrary classification according to Justice Thomas' quotes later in this book), then "strict scrutiny" is the courtroom standard, by which judges are more skeptical of claims made about facts by court-recognized fact finders. *Roe* ruled that abortion is a "fundamental" right in 1973, but it lost that status in 1982 with *Casey*, and *Dobbs* blew away the last traces of it.

Not that the evidence of court recognized fact finders, the power of legislative findings, and the general power of laws to shape court rulings, should be necessary to inform judges as if they were otherwise helplessly ignorant. The fact that this evidence and argument has not been before the Supreme Court does not excuse justices for ruling as if they had never heard it.

True, it is considered unethical for judges to investigate facts on their own; they should normally limit their review of facts to those facts presented by the parties to the case, where the other side has an opportunity to respond. And no state law which has been reviewed by SCOTUS has asked for abortion to be outlawed because it murders little humans, so technically their ignorance, breathtaking as it is, can be excused.

But even without formal presentations of this evidence, the fact that little people are still people falls under "common knowledge", of which judges frequently, and quite ethically, "take judicial notice".

Besides, this kind of evidence *has* been presented in court – in cases which the Supreme Court chose not to hear. And even those cases which SCOTUS turned down placed legal briefs in the record which were read by at least some of the clerks of the justices.

So the justices are not that innocent. Their ignorance is willful.

Still, prolifers share some of the blame for tiptoeing around *Casey* so long. *Casey* told states that no abortion restriction could be "constitutional" that had, for any part of its purpose, the reduction of abortion. *Casey* barred any restriction that "*has the purpose* or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus." *Planned Parenthood v. CASEY,* 505

U.S. 833, 877 (1992)

Thus, while lawmakers told prolife voters their laws were designed to reduce abortion as much as courts would let them, their argument in court avoided any suggestion that babies of people are people, in order to cover up their crime of caring.

Thus states deliberately kept evidence out of court that babies of people are people, for most of abortion's half century. And again, judges think it is unethical to rule according to evidence submitted by neither party to a case. (They way they ruled in *Roe*.)

Yet even today, after *Casey* is overturned and states are specifically invited by SCOTUS to outlaw abortion is much as voters will permit, I still read courtroom defenses that don't mention the reason for outlawing abortion: that babies are people, which makes abortion murder. Why? Is it just 30 years of *Casey*-inspired habit?

☡ More about " 'Unborn victims of violence' laws... of 39 states and Congress [have survived] many challenges"

"Unborn Victims of Violence" laws recognize an unborn baby as a legal victim, if they are injured or killed during the commission of criminal violence against the child's mother. 38 states have them.

30 states count violence as murder that kills an unborn baby at every stage of gestation: Alabama, Alaska, Arizona, Arkansas, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin.

Eight more states penalize harm caused during later pregnancy: California, Maryland, Massachusetts, Montana, Nevada, New Hampshire, Rhode Island, Washington, and New York.

The source of this list, www.nrlc.org/federal/unbornvictims/statehomicidelaws092302/, counts New York has having a conflict between its homicide penalty for killing a baby after 24 weeks and a law that says a "person" that is the victim of a homicide is statutorily defined as a "human being who has been born and is alive." But as I explain in footnote #7 of Statement #1, that definition is not a definition of a human, but in context it simply means that when the coroner investigates dead bodies found in his county, or in a jail, he will not

investigate unborn babies. It also means a judge, when excluding the public from divorce or rape trials, will not exclude unborn babies.

(The NRLC link also lists the statute numbers where you can read those laws.)

Wikipedia tells us that not only have these laws been challenged many times in court and have always survived, (challenges "...have been uniformly rejected by both the federal and the state courts"), but also that abortionists and Democrats don't quite understand how legal abortion *has been able to survive the passage of these laws!* They can hardly believe their good fortune, that even though these laws establish the unborn as "14th Amendment 'persons'", prolifers have *still* not cited them in court in support of outlawing abortion. Here is the Wikipedia excerpt:

> The Unborn Victims of Violence Act was strongly opposed by most abortion-rights organizations, on grounds that the U.S. Supreme Court's Roe v. Wade decision said that the human fetus is not a "person" under the Fourteenth Amendment to the U.S. Constitution, and that if the fetus were a Fourteenth Amendment "person", then they would have a constitutional right to life.[1] The laws of 38 states also recognize the human fetus as the legal victim of homicide, and often other violent crimes during the entire period of prenatal development (27 states) or during *part* of the prenatal period (nine states).[2] Legal challenges to these laws, arguing that they violate *Roe v. Wade* or other Supreme Court precedents, have been uniformly rejected by both the federal and the state courts, including the supreme courts of California, Pennsylvania, and Minnesota.[3]
>
> Senator John Kerry, who was a main opponent of President George W. Bush in the 2004 presidential election, voted against the bill, saying, "I have serious concerns about this legislation because **the law cannot simultaneously provide that a fetus is a human being and protect the right of the mother to choose to terminate her pregnancy.**"[4]
>
> Some prominent legal scholars who strongly support *Roe v. Wade*, such as Walter Dellinger of Duke University Law School, Richard Parker of Harvard, and Sherry F. Colb of Rutgers Law School, have written that fetal homicide laws do *not* conflict with *Roe v. Wade*.[5]
>
> A principle that allows language in law to not conflict

with Roe, which logically *should* trigger Roe's "collapse" clause, was explained in *Webster v. Reproductive Health Services*, 492 US 490 (1989). Until such language becomes the basis for laws that specify penalties for abortion, the issue is not even before the court, of whether or not such language conflicts with Roe, and if so, which should be struck down.[6]

Representative Jerrold Nadler made a statement in voicing his opposition to a proposed federal law giving prenatal entities certain legal rights. **The bill appears to contradict an important premise behind the constitutional right to seek an abortion: prenatal entities are not persons.**[7]
[https://en.wikipedia.org/wiki/Unborn_Victims_of_Violence_Act]

Footnotes to this Wikipedia excerpt:

1 *Roe v. Wade*'s collapse clause says: "The appellee and certain amici argue that the fetus is a 'person' within the language and meaning of the Fourteenth Amendment. In support of this, they outline at length and in detail the well-known facts of fetal development. *If this suggestion of personhood is established, the appellant's case, of course, collapses, for the fetus' right to life would then be guaranteed specifically by the Amendment.* The appellant conceded as much on reargument. On the other hand, the appellee conceded on reargument that no case could be cited that holds that a fetus is a person within the meaning of the Fourteenth Amendment."

2 State Homicide Laws that recognize unborn victims: http://www.ncsl.org/research/health/fetal-homicide-state-laws.aspx (dead link; instead, go to https://www.nrlc.org/federal/unbornvictims/statehomicidelaws092302/)

3 Constitutional Challenges to State Unborn Victims (Fetal Homicide) Laws. http://www.nrlc.org/Unborn_Victims/statechallenges.html

4 Fisher, Brian E. (2014). Abortion: The Ultimate Exploitation of Women. New York, NY: Morgan James Publishing. pp. 16. ISBN 9781614488415. https://archive.org/details/abortionultimate0000fish

5 "The Unborn Victims of Violence Act and Roe v. Wade – Read what these supporters of legal abortion say about 'fetal homicide' laws" (PDF). National Right to Life Committee. 2004-02-02. Archived from the original (PDF) on 2013-04-20. Retrieved 2019-10-13. https://web.archive.org/web/20130420160514/http://www.nrlc.org/Unborn_Victims/RoeSupportersSpeakUVVA.pdf

6 "...until those courts have applied the...state's view of when life begins...to restrict appellees' [abortionists'] activities in some concrete way, it is inappropriate for federal courts to address its meaning." *Webster v. Reproductive Health Services,* 492 US 490 (1989). Sandra Day O'Connor added in a concurrence, "When the constitutional invalidity of a State's abortion statute actually turns upon the constitutional validity of Roe, there will be time enough to reexamine Roe, and to do so carefully."

7 Alongi, April (2008-09-01). "The Unborn Victims of Violence Act

and its Impact on Reproductive Rights". Washington and Lee Journal of Civil Rights and Social Justice. 15 (1): 285 – via Scholarly Commons. https://scholarlycommons.law.wlu.edu/crsj/vol15/iss1/11

Roe is officially overturned anyway, of course. But it may be worth establishing that there is nothing in its rubble, or anywhere else, that could support any undermining of the fact-finding authority of "unborn victims of violence" laws to establish anything less than the full humanty/personhood of the unborn.

If you still wonder if the way *Roe* minimized this evidence makes sense, the remainder of this Note is for you.

Roe said such laws don't prove lawmakers actually think babies are people: they probably just treat the baby's death as a loss the way you would treat the loss of a dirt bike. Or of a puppy:

> "...some States permit the parents of a stillborn child to maintain an action for wrongful death because of prenatal injuries.[65] Such an action, however, would appear to be one to vindicate the parents' interest and is thus consistent with the view that the fetus, at most, represents only the potentiality of life. ...In short, the unborn have never been recognized in the law as persons in the whole sense." *Roe v. Wade,* 410 U.S. 113, 162 (1973)

An example of such a lawsuit occurred just three months before the *Roe* ruling. A car was hit by a Greyhound bus, killing a mother and her 8-1/2 month unborn child. www.masscases.com/cases/sjc/368/368mass354.html. The administrator of their estate sued Greyhound for "wrongful death" of a human being.

Roe's dismissal of evidence like that doesn't work for today's "unborn victims of violence" laws for two reasons:

(1) 28 of the 38 states explicitly state that the premise of their law is the humanity/personhood of the unborn – while saying nothing about the interests of the parents, and

(2) *Roe* was talking about parents bringing *civil* lawsuits against people whose negligence had caused the deaths of their unborn children, in which case the parents' interest was indeed a factor. But unborn victims of violence laws are different: they are *criminal* charges, brought by county or state prosecutors, to vindicate the *states*' interest in *protecting life,* without asking the parents for permission first. And the penalties for killing an unborn baby are the same in 38 states as the penalties for killing the mother. This is not like the parents' interest in the loss of some inanimate object, like a refrigerator. Or a

dog.

ℬ More about **15 U.S. Senators served on the U.S. Supreme Court**

https://www.senate.gov/senators/ Supreme_Court.htm

Congress approves Supreme Court justices. Not only does the Constitution give Congress that power, but Congress is well qualified: it contains many lawyers, many of whom qualify as constitutional scholars. At least that is what presidents have often thought, since 15 U.S. Senators served on the U.S. Supreme Court, not counting those nominated but not approved by the Senate. An example of a qualified Senator today is Ted Cruz, Republican from Texas, who as Texas Attorney General successfully argued several cases before the Supreme Court. Cruz is on a "short list" of Supreme Court candidates published July 22, 2023 by presidential candidate Vivek Ramaswamy. www.marketwatch.com/story/republican-presidential-hopeful-ramaswamy-puts-ted-cruz-and-mike-lee-on-his-supreme-court-list-69655939

Lawmakers are also elected from the same populations that supply jurors.

So now that Congress and 38 states rule that all unborn babies are fully human from fertilization, their ruling on that fact carries at least as much legal weight as what the Supreme Court has ruled. *Especially since the Supreme Court declines to rule:*

> **(22 State Policy Organizations** amicus brief filed in Dobbs:) The positivistic [materialistic – the belief that only physical things are real] reduction of persons represented by the Court's abortion decisions has leavened the law in a way that curtails historic State policies grounded in deference to a given human nature and the common law rights that correspond to that nature.
>
> By purporting to leave the question of the meaning of persons in the Fourteenth Amendment unanswered, this Court's holdings requiring States to abandon common and natural law commitments have effectively ratified a diminished view of the human person in law. These holdings have foisted upon the States a denatured anthropological model that prohibits them from ascribing objective meaning, dignity, and value to vulnerable persons.
>
> The severe distortion of the human person in constitutional

> caselaw invites systemic effects well beyond the troubled context of abortion. If constitutional precept commands States to treat nascent human life as vacant of meaning and value apart from subjective individual determination or Court authorization, concurrently placed in doubt is the historic understanding of law as constrained by a reality prior to and beyond its coercive impositions.
>
> A national abortion-enablement policy is mournful in itself, but does not keep to itself. It corrodes the law altogether. [www.supremecourt. gov/DocketPDF/19/19-1392/185004/20210727112957999 _Dobbs Amici brief_FPC_ 7.23.21.pdf]

The pretense that judges can't tell if babies of humans are humans, maintained by Roe and retained by Dobbs, is a sophistry no longer believable if it ever was. When judges profess greater ignorance than that of children, they should not claim to know better than state legislatures.

Nathan Schlueter said nearly the same thing in a way that sounds more scholarly: "We cannot afford to feign skepticism about the personhood of unborn children any more than an earlier age could afford to feign skepticism about the personhood of African-Americans."

What makes that sophistry as legally absurd as it is spiritually blasphemous is that it plays games with reality. Blacks are people with souls equally loved by God with all other souls; so are babies. To imagine otherwise is as specious as telling the property tax collector that your house is actually a tent. A house is not a tent, and a person is not 3/5 of a person; nor is a person only "*potential* life". Nor can either slavery or murder be left for voters to decide whether to keep legal.

Connie Weiskopf and Kristine L. Brown, in their amicus in Dobbs, wrote:

> The sophistry at the heart of Roe is that the beginning of human life was ever a subject for speculation ...There was no doubt at the time of the Fourteenth Amendment as to whether the common definition of "person" included preborn persons. One-hundred and fifty years since, medical science has overwhelmingly confirmed this commonly understood inclusion of preborn persons in legal personhood. ...no other so-called constitutional right involves the "the purposeful termination of a potential life." Yet even in *Harris*, we see the poison of Roe in

> the qualifier "potential." ...By choosing *Levy v. Louisiana*, 391 U.S. 68 (1968) as the test for legal personhood, this Court can reach a new milestone in the advancement of human rights. ...The Court started from the premise that "illegitimate children are not 'nonpersons,'" insofar as they are "humans, live, and have their being." *Levy* 391 U.S. at 70 (emphasis added). Thus all children who 1)are human, 2) are living, and 3) are in being, are "clearly" persons under the Equal Protection Clause. [www.supremecourt.gov/DocketPDF/19/19-1392/185063/20210727174713396_FINAL_Brown_Weiskopf_Dobbs_Amicus.pdf]

"Trust" and "Congress" aren't a perfect fit, but compared to public trust in other human authorities it ranks high, while trust in juries and in experts ranks higher. There is more public scrutiny of the trustworthiness of political authorities more than that of authorities on other subjects because what political authorities rule affects more of us more.

But the willingness of most of society to live by most of the rules imposed by our government is an important measure of society's trust in its authorities to create rules which mostly conform to reality. Which in turn is an important measure of society's trust in the expertise of its authorities to grasp reality to a reasonable level.

More about "Juries become authorities"

The reason juries can "establish" these truths with the kind of authority that is as acceptable to whole societies as other human authorities is that unlike public opinion surveys or petitions, which are normally not admissible evidence of facts in court because popular uninformed opinion is a less stable reservoir of justice, we test jurors for impartiality and educate them with the most qualified expert witnesses we can find.

And the education of jurors does not end with a 500 word article. It continues until both sides run out of evidence. Which can take all day, all week, or even all year. Juries contribute impartiality, and commitment to study as long as necessary, to our search for Truth.

Juries are also less likely to be swayed by scholarly sounding gaslighting. Where there is gaslighting, the opposing attorney is likely to alert jurors to it. And if a legal theory seems seems irrefutable but makes no sense, or seems fundamentally unfair, juries are not bound by

law to endorse it.

Juries are sometimes bolder than judges and lawyers to follow the obvious when a judge's application of the law doesn't fit the facts or a precedent has an erroneous factual premise.

Unfortunately when states defend their abortion restrictions in court, they have not, so far, cited the consensus of juries in those few early abortion prevention trials in which judges allowed juries to hear the Necessity Defense (the defendants' action was necessary in order to save lives) and juries acquitted because the defendants were saving lives. This is a powerful resource which prolifers need to use. In both kinds of courts - of Law, and of Public Opinion.

5 More about "Expert Witnesses are scrutinized by the other side's experts"

That is a standard that news reporters make a show of meeting, but reporters will (1) talk to a source for an hour and select maybe two sentences for a quote, (2) take the quote as far out of context as necessary to suit the prejudices of the reporter, (3) get the quote wrong, (4) make no public record available of all that was said so readers can double check the accuracy of the report, and (5) cram all that into 300-1,000 words.

News reporters are kind of low on the trust scale, especially after revelations of their cooperation with government censors over recent years, yet are high enough that millions still turn to them to understand the world around them. Expert witnesses rank higher, because they are held to higher standards. Their usual audiences are other experts who can't be easily fooled

In abortion prevention trials, (where people were prosecuted for trying to save lives by preventing abortion, usually by blocking doors so mothers couldn't enter to murder their babies), expert witnesses testified that fully human life begins from the first minute, and were never refuted.

But confusing themselves for news reporters, judges censored the expert witnesses, not allowing the juries to hear them, but only letting them testify after sending the jury to another room. Technically, however, they created a public record; a Court Reporter took notes and will convert it into a readable transcript – for several hundred dollars if the testimony isn't long.

The fact that expert witnesses in abortion prevention trials were

never refuted is breathtaking considering that abortionists invest billions in legally attacking prolifers, demonstrating their extremely high motivation to refute prolifers in court to the fullest extent possible. In normal trials, if a litigant argues that the opposing evidence is irrelevant, he will also bring in contrary evidence to show the opposing evidence is also wrong, in case the judge doesn't agree that it is irrelevant. But in abortion prevention trials the fact that human babies are people was dismissed as irrelevant, while the accuracy of the fact was for all practical purposes conceded, being left unchallenged. Indeed, who could refute it?

Judges. Individual judges who have taken a position, are another category of court-recognized fact finders who agree babies are people.

One reason judges probably have more credibility than news reporters is they at least write a summary of the proceedings, reporting the positions of both sides, in way more detail than news reports. Roe was 65 pages. And anyone can get copies of the legal briefs filed, and if they are rich enough, a transcript of the proceedings. At least records exist, unlike news reporter interviews. (As opposed to talk show guests.)

In the past judges' rulings were available to anyone by going to a law library, while the briefs of the parties, and the amicus briefs, were unavailable to the public. That gave judges' version of cases the only version the public saw. Before computers, there was only one paper copy of each record, in lower courts. The public was allowed to inspect them there in the recorder's office, but not to remove them. Although prosecutors could take them out of the office. One prosecutor actually admitted in court that he destroyed records in my friend's file to deny him the opportunity to seek relief. He was not punished.

Rulings are much easier today to find online, but now SCOTUS makes the entire docket (record) available online, and lower courts are moving in that direction.

Today the Polk County Courthouse has docket filings on its computers, which the public can view, and can print off for a charge.

When the Sixth Amendment "right to counsel" was added to our Constitution, hiring on as a human copying machine for a lawyer was one of the ways people studied law to become lawyers.

Am I rambling?

6 More about "court-recognized fact finders

are...respected in...the Court of Public Opinion."

Juries, 2023, August 28: "Nearly **60% of Americans say they have at least a fair amount of trust in juries**, according to a new survey — **higher than for any other group in the judicial system.** But that trust may soon be put to the test, as former President Donald Trump appears to be headed for multiple trials in the coming year. When asked specifically about Trump's upcoming trials, a majority of Americans — Democrats, Republicans and independents — said they did not think the courts would be able to seat impartial jurors." - *New York Times,* https://news.yahoo.com/americans-still-put-trust-juries-123035691.html

News reporters, 2021, October 8:

"**36 percent of survey respondents say they trust the press** to report the news fully, fairly, and accurately (down from 40 percent who said the same last year)....29 percent have 'not very much' trust in media and 34 percent 'none at all.' " Gallup poll, reported in Reason, https://reason.com/2021/10/08/trust-in-media-and-elected-officials-near-record-lows-in-gallup-poll/

Judges, 2022, September 29: "Trust in the judicial branch of the federal government has fallen by 20% since 2021.... The poll showed that only **47 % of respondents expressed 'a great deal' or 'a fair amount' of trust in the judicial branch.**...(Trust among) Democrats...fell from 50% in 2021 to 25% in 2022, while independents' trust fell by 5% to 46%. Republicans, by contrast, saw their confidence in the judiciary rise to 67%....In 2000, during the Bush v. Gore case about that year's presidential election, trust in the judiciary was at 75%, a full 28% higher than it is currently."

As for the **Supreme Court, "58% disapproved** of their performance, a record high, while 40% approved, a record low."

Republican confidence in SCOTUS got a boost from *Dobbs v. Jackson,* which overturned *Roe v. Wade* and *Planned Parenthood v. Casey.* "Additionally, the judiciary has reversed several policy initiatives by the Biden administration. These include the federal mandate to wear masks on transportation (*Health Freedom Defense Fund v. Biden*) and the federal vaccine mandate on private businesses (*NFIB v. OSHA*). - Gallup.com, https://news.gallup.com/poll/185528/trust-judicial-branch-sinks-new-low.aspx

State Legislatures & Governors, 2018, September: The first percentage is the trust level among whites; the second is that among blacks: **state legislature, 47/40%**; governor, 48/39%; state courts,

57/42%; local police, 70/39%; SCOTUS, 56/44%; Congress, 22/31%; President, 40/2%! - *Black Trust in U.S. Legislatures,* by Earnest Dupree III and John R. Hibbing, *Legislative Studies Quarterly*, https://onlinelibrary.wiley.com/doi/full/10.1111/lsq.12402

Mark 8:38 Whosoever therefore shall be ashamed of me and of my words in this adulterous and sinful generation; of him also shall the Son of man be ashamed, when he cometh in the glory of his Father with the holy angels.

We Bible believing conservatives need to quit blaming social media and CIA censorship for our failures and *stop censoring ourselves.*

I offer a way of stating evidence which no judge, news reporter, Democrat, or unbeliever can refute,

along with answering objections that have crippled prolife messaging and legal strategy. But we despair of reaching those who stop their ears to evidence. "What's the use of tightening our message? You're preaching to the choir. *We* know babies are people but those other people have their opinion too."

I'm not preaching to the choir. I'm passing out a new composition to the choir for a coming TV special.

Most of those who won't listen, won't vote either, rendering their willful ignorance relatively benign. Stop worrying about them. All they will do is hate you, lie about you, wreck your business – childish stuff. We progress by clearly articulating to the extent possible. The same Bible which is the main reason we care about babies promises all the protection we need to finish what we are here to do.

It isn't just saving baby bodies where we self censor. Adult souls are lost. We hold back sharing what we know about God. Snap out of it.

Finding #3: The FACT that Babies are Fully Human was never denied or ruled irrelevant by SCOTUS.

From Roe (1973) through Dobbs (2022), SCOTUS evaded that core issue.[1]

SCOTUS never ruled babies Non-Persons "as a Matter of Law", as lower courts allege.[2] Roe made that fact not only relevant, but dispositive with a holding which no court has disputed even though Roe's main holding was overturned:[3] "[Prolifers] argue that the fetus is a 'person' within the language and meaning of the Fourteenth Amendment....If this suggestion of personhood is established, the [abortionist's] case, **of course**, collapses, for the fetus' right to life would then be guaranteed specifically by the [14th] Amendment [thus outlawing abortion in EVERY state]. The [abortionist's lawyer] conceded as much...."[4]

Dobbs explicitly left this statement of the obvious untouched, saying "our decision is not based on any view about when a State should regard pre-natal life as having rights or legally cognizable interests...."[5] *Dobbs* did *not* say babies aren't people. *Dobbs* did *not* say voters should still decide whether babies can be murdered in the face of proof that babies are **in fact** people.[6] *Dobbs* left in place *Roe's* observation that *"establishment"*

of this ***fact,*** independently of any law, ruling, or future constitutional amendment,[7] dictates whether abortion is legally recognizable as a right or as a crime.[8]

This established **fact** is as relevant today as when Roe said "of course" it is.

This established **fact** is not disestablished by any judge's alleged inability to understand it.[9]

This established **FACT** is not made irrelevant by any judge's theory that the legal right of little humans to live is "impossible" to determine so it should be decided by their value to big humans.[10]

If only those *legally recognized* as "persons" were people, slavery could still be legal and the 14th Amendment would mean nothing. Slavery states would merely need to classify their victims as only 3/5 human.[11] The Amendment protects those who are **IN FACT** people – what is irrelevant is whether babies are people "as a matter of law".[12] 15/339 words

1 More about **"From Roe...through Dobbs... SCOTUS dodged [the fact that babies are fully human]".**

SCOTUS only reviewed cases that did *not* raise "babies are people" as a reason to outlaw abortion, beginning with *Doe v. Israel,* 1973, (in which Rhode Island raised that defense but SCOTUS declined to hear the case – "cert denied") and ending with *Dobbs v. Jackson,* 2022, in which Mississippi's Attorney General never gave that as a reason to overturn Roe.

Mississippi said babies are real people, but deliberately

refused to give that as a reason for outlawing their extermination in *every* state.

Although Mississippi's lawmakers added evidence of the humanity of babies in their Findings of Facts, the brief of the Attorney General gave every *other* reason for overturning Roe, and explicitly denied, in oral arguments, that SCOTUS should outlaw baby killing (in every state).

Outlawing baby murder (in every state) **wasn't even considered in oral arguments.** Not in the December 1, 2021 oral arguments did any justice entertain such a radical idea as outlawing baby murder – nor did Mississippi's Attorney General, even after the AG boldly said, and no one disagreed: abortion is "the purposeful termination of a human life", "Roe and Casey...have no basis in the Constitution. They...adopt a right that purposefully leads to the termination of now millions of human lives." "I think this Court in Gonzales pretty clearly recognized that before viability, we are talking, with unborn life, with a human organism." Justice Alito even added, "the fetus has an interest in having a life". (Which is weaker than had he said "preborn babies have a *fundamental right* to life.")

And yet when Justice Kavanaugh asked the AG, "And to be clear, you're not arguing that the Court somehow has the authority to itself prohibit abortion or that this Court has the authority to order the states to prohibit abortion as I understand it, correct?" the AG answered, "Correct, Your Honor."

Dobbs explicitly acknowledged the central issue, and immediately explicitly declined to address it:

> There is ample evidence that the passage of these laws was instead spurred by a *sincere belief that abortion kills a human being*. Many judicial decisions from the late 19th and early 20th centuries made that point....One may disagree with this belief (and **our decision is not based on any view about when a State should regard prenatal life as having rights or legally cognizable interests)**, but even Roe and Casey did not question the good faith of abortion opponents. See, e.g., Casey, 505 U. S., at 850 ("Men and women of good conscience can disagree . . . about the profound moral and spiritual implications of terminating a pregnancy even in its earliest stage"). DOBBS v. JACKSON WOMEN'S HEALTH ORGANIZATION 945 F. 3d 265

Indeed this same judicial willful blindness to the only issue that really matters distinguished *Roe* and *Casey*, just as *Dobbs* reports – and not just the majority opinion but even the dissents of the conservatives!

Here is Scalia's, White's, and Thomas's dissent in *Casey*, followed by a statement from *Roe:*

> Casey dissent: The whole argument of abortion opponents is that what the Court calls the fetus and what others call the unborn child is a human life. Thus, whatever answer Roe came up with after conducting its "balancing" [between women's "privacy" and "potential life"] is bound to be wrong, unless it is correct that the human fetus is in some critical sense merely potentially human.
>
> **There is, of course, no way to determine [whether the unborn are human] as a legal matter; it is, in fact, a value judgment**. Some societies have considered newborn children not yet human, or **the incompetent elderly** no longer so. *Planned Parenthood v. Casey,* 505 U.S. 833, 982 (1992) (Concurrence/dissent of Scalia, White, Thomas)
>
> Roe: "the judiciary, at this point in the development of man's knowledge, is not in a position to speculate as to the answer...[to] the difficult question of when [constitutionally protectable human] life begins." So therefore "We need not resolve" the question!...
>
> "[Prolifers] argue that the fetus is a 'person' within the language and meaning of the Fourteenth Amendment. In support of this, they outline at length and in detail the well-known facts of fetal development. If this suggestion of personhood is established, the [abortionist's] case, of course, collapses, for the fetus' right to life would then be guaranteed specifically by the [14th]Amendment. The [abortionist] conceded as much on reargument.
>
> "...we would not have indulged in statutory interpretation favorable to abortion...if [we had known that] the necessary consequence was the termination of life entitled to Fourteenth Amendment protection."

What fact can be more central to an abortion case, than that babies are people, which makes killing them murder? Yet for 50 years and still counting, even SCOTUS' most conservative justices seem determined, if not personally, ethically, and religiously invested, in ignoring that "elephant in the room".

They are not alone: the same willful blindness reigns in the Court of Public Opinion. And even in many churches.

Therefore this obstacle to saving lives needs to be taken seriously. Satan has set up headquarters there. Every effort must be taken by legislatures to make "it's a baby" the central, inescapable issue in court, and Findings of Facts must not only prove clear and irrefutable to judges but just as clear and irrefutable in the Court of Public Opinion.

SCOTUS was never challenged (in any case it took) to see babies as people. From a post at Personhood.org: "Since Roe, the Supreme Court has not been presented with a challenge concerning the legal status of the personhood of an unborn human being (as the reason to outlaw abortion) . Instead, the cases have centered on a multitude of state regulations that are designed to sway a woman's choice, or chill a physician's willingness to provide abortion services." (https://personhood.org/wp-content/uploads/2020/02/Lugosi-The-Constitutionality-of-Personhood.pdf) Well, that's almost true. SCOTUS has been *presented* with such cases, but has declined to hear them.

I don't know if any state law presented such a case, since Rhode Island in 1973.

So why? Why have state legislatures dodged "it's a baby" in their prolife laws, just as rigorously as SCOTUS ignores that central issue?

The most plausible answer I can think of for legal abortion's first 19 years was the sophistry of Federal Judge Pettine's smackdown of Rhode Island's 1973 abortion ban. More details later, but he characterized Roe as saying it didn't matter if babies are *in fact* people, because Roe made babies non-people "as a matter of law". As a later Statement of Fact demonstrates, that sophistry the opposite of what Roe said, and the opposite of what the 14th Amendment provides. But in all those years I am unaware of a challenge to that sophistry.

Casey established an additional reason for states to not dare mention the "Elephant in the Womb". Er, room. *Casey*, 1992, said no state law can "substantially" restrict abortion, OR have for its purpose ANY reduction of abortion. That intimidated prolife states into crafting prolife laws which did NOT substantially reduce abortion, and which were justified by some other "legitimate government purpose" than saving lives. For example, keeping the murder rooms clean, keeping an accurate count of the number of murders, or informing moms that they were about to become murderers.

Those "legitimate government purposes" became SCOTUS-approved. But not "saving lives". So evidence that stopping the slaughter of babies was irrelevant; in fact, fatal to a defense, since it would have betrayed that part of the state's purpose was to reduce the murders!

An example of how far states went to accommodate *Casey* was Iowa's heartbeat bill. Prolifers were told it would eliminate almost all abortions since the age where a heartbeat is detectable is almost the age where a mom knows she has a baby. But in district court, obviously trying to dodge *Casey*, attorney Martin Cannon actually told the judge the law would *not stop one single abortion; it would merely pressure mothers to hurry up and find out whether they are pregnant so they can murder their babies before we are sure they are "persons"! (See* http://saltshaker.us/SLIC/IowaHeartbeatArguments.pdf *)*

Rhode Island in 1973. Since *Roe* had alleged ignorance about the unborn because "the unborn have never been recognized in the law as persons in the whole sense", the Rhode Island legislature offered to school the Court.

Texas AG Wade had said human babies are people, but it wasn't explicit in Texas law. It was only a courtroom argument of an Attorney General. So Rhode Island enacted that recognition in law, so SCOTUS would know. Rhode Island's law had a strong statement that unborn babies are persons, and strong criminal penalties for aborting them. *Doe v. Israel,* 358 F. Supp. 1193 (1973). *Doe v. Israel,* 1 Cir., 1973, 482 F.2d 156.

SCOTUS declined to hear the case. Cert. denied, 416 U.S. 993.

Federal Judge Pettine ruled, "The Rhode Island legislature apparently read the opinion of the Supreme Court in Roe v. Wade to leave open the question of when life begins and the constitutional consequences [**12] thereof." *Doe v. Israel,* 358 F. Supp. 1193, 1199 (1973)

Pettine didn't just respond "well, that's a little more of the 'establishment' courts will need before we outlaw abortion again, but that's still not enough." He went far beyond SCOTUS, saying all the evidence in the world was irrelevant:

"I neither summarize nor make any findings of fact as to their testimony [about whether unborn babies of human mothers are humans/persons]. To me the United States Supreme Court made it unmistakably clear that the question of when life [in fact] begins needed no resolution by the judiciary as **it was not a question of**

fact. ... I find it all irrelevant...." *Doe v. Israel*, 358 F. Supp. 1193, 1197

Judge Pettine, and he wasn't alone, thought it irrelevant that human babies are *in fact* people, even though "of course", to use Roe's phrase, that fact makes killing them legally recognizable as murder.

If *Roe* didn't treat Life as "a question of fact", but of law, how did doctors and preachers become more qualified to "answer" the "question", according to *Roe*, than SCOTUS? *Roe* said the court was "in no position to speculate as to the answer" because, supposedly, doctors and preachers don't agree, not that the answer was irrelevant. *Roe* said the answer was not only relevant, it was dispositive: once "established", it must "of course" end legal abortion.

Doe continues: "It is true that the Court in *Wade* and *Bolton* did not attempt to decide the point 'when human life begins.' No reading of the opinions, however, can be thought to empower the Rhode Island legislature [alone] to 'defin[e] some creature as an unborn child, to be a human being and a person from the moment of its conception.'" *Doe v. Israel*

Legislatures establish facts. Since when does a state legislature need SCOTUS to "empower" them to establish facts? Normally courts *respect* findings of facts by legislatures. See Statement of Facts #3. *Doe* continues: "Roe v. Wade and Doe v. Bolton can [not] be nullified by the simple device of a legislative declaration or presumptions contrary to the court's holding." *Doe v. Israel*

"Device"? Correction of a precedent's "erroneous factual premise" officially removes its Stare Decisis protection. Normally.

Roe's holding had a condition. Rhode Island met it. *Roe's* holding was premised on *Roe's* version of history in which no court-recognized legal authority had established precisely the fact which Rhode Island stepped forward to establish. That is, *Roe* put an implied condition on its holding: that no future authority, such as a legislature, would do what Rhode Island did.

The Rhode Island legislature is a court-recognized finder of facts. The only thing *Roe* didn't clarify was *how much* establishment, by *how many* fact finders, was "enough" establishment to satisfy the court.

But now that issue is gone. There can be no more "establishment" of *any* fact than the uncontested consensus of every court-recognized fact finder that took a position, in all five categories of court-recognized fact finders. If *Roe* was correct, that "establishment" was possible, then "establishment" has been

accomplished. If the unanimous – uncontested – finding of every court-recognized fact-finder is not enough "establishment" for the court to know a fact, it is impossible for any judge to know anything.

This challenge is not just to judges. It is to anyone who thinks abortion ought to remain legal.

I challenge them to squarely address the easily documented evidence that every American legal authority that has ruled on "when human life begins" has ruled that Life begins "at the beginning", which makes babies as fully human as blacks were two centuries ago, which makes killing babies legally recognizable as murder, which no state can be allowed to legalize any more than any state can legalize slavery.

☡ More about **"SCOTUS never ruled babies Non-Persons 'as a Matter of Law', as lower courts allege [making the fact that babies are people 'irrelevant'!]"**

State appellate precedents falsely insist SCOTUS made babies nonpersons "as a matter of law", making "when life [in fact] begins" irrelevant, so therefore evidence that babies are real people should not even be allowed in court, in trials of prolifers charged with blocking the doors of baby killers to save the lives of babies being brought in to be murdered. Juries must judge only whether doors were blocked, and ignore whether lives were saved.

It began in 1973 with *Doe v. Israel*, 358 F. Supp. 1193: "To me the United States Supreme Court made it unmistakably clear that the question of when life [in fact] begins needed no resolution by the judiciary as it was **not a question of fact.** ... I find it all irrelevant...." (See previous footnote.)

Whatever happened to "trial by *jury"?*

This became the excuse for judges to not even let juries – the official "finders of **facts**" in jury trials – hear evidence in thousands of abortion prevention trials about the only **fact** that mattered: that the unborn babies saved by blocking abortionist doors were in fact *people.* See *City of Wichita v. Tilson*, 253 Kan. 285 (1993), in which the Kansas Supreme Court reviews several other state supreme court precedents. (For 7 pages of my analysis of "Errors in abortion prevention cases", especially featuring *Tilson*, see Appendix F, page 84 of my book www.saltshaker.us/HowStatesCanOutlawAbortion.pdf (in a Way that Survives Courts.))

When defendants argued in court that it was "**necessary**" to

commit the lesser harm of trespassing by sitting in front of the killing doors to prevent the greater harm of baby killing, courts asked how baby killing could be legally recognizable as harmful at all, being a "constitutional right"?

Courts in door blocking cases borrowed Judge Pettine's trick of accusing *Roe* of making the issue "a matter of law", which makes the FACT that babies are people "irrelevant". Therefore juries, the official "Finders Of **Facts**", weren't allowed to even know about the **Necessity Defense**, even though that defense was usually the only defense in such cases, based on the only contested **fact,** and supposedly defendants have a right to "trial by *jury".* How is it a "trial by *jury"* when the judge decides the only contested issue of a trial and doesn't even allow the jury to know the defendant's only defense? Even when the only contested issue is about a **fact?** (See my entertaining video about this featuring humor and children, at "Trial By Jury 5-part video", at http://saltshaker.us/Scott-Roeder-Resources.htm)

The error: Roe never made abortion an absolute, unconditional right, immune from reality. The error in those precedents was thinking Roe made abortion an *absolute* constitutional right, whose factual premise could never be challenged.

Actually an *erroneous factual premise* is an official exception to *Stare Decisis,* [the courtroom doctrine that makes future rulings mostly follow past rulings] and Roe had explicitly made "constitutional protection" of abortion subject to the "establishment" of unborn "personhood", which Roe treated as a fact question about which the justices were "unable to speculate...at this point in the development of man's knowledge", which therefore was an invitation to future fact finding.

Yet in tens of thousands of abortion prevention cases, the only disputed fact was whether the lives saved were of human persons, yet the Finders of Facts were not allowed to know the issue existed, nor were allowed to hear the doctors and geneticists brought in by the defendants – the expert witnesses, to testify to the fact that babies of people are genuine people. The judged ruled on the only contested fact and kept the evidence secret from the jury. *Yet the charade was called "Trial by Jury"!!!*

Since *Dobbs*, abortion is no longer "constitutionally protected", but SCOTUS has still not refuted the reality-denying theory that babies are nonpersons "as a matter of law".

Therefore these lingering lower court precedents – there are

many of them – need to be addressed.

Here are the cases reviewed in Appendix F of the book linked above, with just a single statement from each, to show their inconsistency with SCOTUS rulings:

1. "The rationale utilized by '[t]he majority of courts. . . [was] that because **abortion** is a lawful, constitutionally protected act, **it is not a legally recognized harm** which can justify illegal conduct.'" *City of Wichita v. Tilson,* 855 P.2d 911 (Kan. 1993).

Statement of Facts #8 responds to this. Slavery, too, was constitutionally protected, according to the Supreme Court, and it still was as punishment for a crime until 1868 when the 14th Amendment was ratified. The way the 14th Amendment ended slavery applies as well to babies. The fact that babies are people is what matters; what is irrelevant is legal recognition of that fact. The fact that babies are people makes killing them legally recognizable as the ultimate harm: murder, which no state can legalize, and which legally justifies almost any conduct that can stop it

2. "Appellants **may not criminally interfere with the exercise of constitutional rights by others,** and then escape punishment for their criminal conduct by asserting the defense of necessity....A **pregnant woman's decision to exercise her right under the Constitutions** of the United States and of the State of California to terminate a pregnancy is not and cannot be held to be a 'significant evil.'" *People v. Garziano* 230 Cal. App. 3d 242, 244 (1991)

Murder can never be a constitutional right. Saving people from murderers can never be "criminal conduct". No mother can have any legal, much less constitutional right to murder her baby human. Roe v. Wade never said there is any constitutional right to abortion even in the face of conclusive evidence that babies are people, and even if SCOTUS is guilty of such genocide, such a ruling is unconstitutional, being in violation of the 14th Amendment which, as Roe said, protects the Right to Life of even little people.

Lower court judges are more bloodthirsty than Roe. Roe was neutral on whether murdering babies is evil. Roe said "of course" abortion will need to be outlawed if it is "established" that babies are people. "Indeed,...we would not have indulged in statutory interpretation favorable to abortion in specified circumstances if the necessary consequence was the termination of life entitled to Fourteenth Amendment protection." – Roe v. Wade at 159. By contrast, this lower supreme court won't let the fact finders even know

about the defense, lest we find out that human babies are people.

In those thousands of "Rescue the babies" trials, it was a perpetual prayer and struggle to somehow communicate our defense to the jury, which judges were determined to censor. Such as saying before the judge could stop us, in front of the jury, with words that would not simply harden the jury against us, "Shouldn't the jury be allowed to hear my defense?" Such strategies seldom if ever succeeded.

3. "If the legislature cannot delegate a 'veto power' to the patient's ... spouse .... we think it unlikely that a state court could delegate such a 'veto power' to strangers [the jury], to be exercised in such an obtrusive manner." *Cleveland v. Municipality of Anchorage,* 631 P.2d 1073, 1080 n. 15 (1981)

Juries, not spouses, are court-recognized fact finders. Murder is not a "personal decision" whose legality is determined by the family of the murderer. It needs to be determined by reality.

4. "...the 'injury' prevented by the acts of criminal trespass is not a legally recognized injury." *People v. Krizka*, 92 IILApp.3d 288, 48 III.Dec. 141, 416 N.E.2d 36.

The whole point of the 14th Amendment was to overturn laws which deprived genuine human people of their God-given, unalienable rights. Therefore, by definition, what was "legal" and "criminal" was made subject to rights spelled out by God. The Bible validates common sense: babies have conscious souls before as well as after birth, making them just as "human" as any judge, making abortion legally recognizable as murder. Laws which violate the Constitution and the Laws of God make any judge a criminal who enforces them.

Remember that court quote is the judge's excuse for not allowing the jury to even know what the defendant's defense is. Yet The defense rests on a fact: babies of humans are humans. Juries are supposed to be court-recognized fact finders. Yet defendants were censored from telling juries the fact that the trial was about. How is it a "trial by jury" when a judge decides the central question of the case and strictly forbids the jury from even learning what that question is?

In those very few trials where defendants were allowed to tell juries about the Necessity Defense, their verdict was that abortion is in fact murder. Murder is not constitutionally protected. It is not "criminal" to save lives.

5. "Abortion in the first trimester of pregnancy is not a legally

recognized harm, and, therefore, prevention of abortion is not a legally recognized interest to promote." *State v. Sahr,* 470 N.W.2d at 191-192.

You judges are not the fact finders in jury trials. "Trial by jury" was not created because juries are smarter than judges, but because they are more honest. And not too intimidated by ossified legal rhetoric to see the obvious.

Not only that, but the judicial dishonesty that necessitated juries was more about law than facts, when the Magna Carta resurrected juries from the Bible. (Called "judges" in the KJV.)

Why did you judges censor juries? Because you knew their verdict. That babies are people, which makes killing them murder, and, therefore, prevention of murder IS a legally recognized interest to promote, which righteous people have every legal right and Biblical duty to do. (Proverbs 24:10-12) The only way you could say otherwise was by taping shut the mouths of greater authorities than yourselves, who earned their greater authority by their greater honesty.

6. "...the justification defense [is still] unavailable because abortion is lawful by virtue of the United States Constitution." *Allison v. City of Birmingham,* 580 So. 2d 1377 (1991)

See Finding #8. No reading of the Constitution can logically legalize abortion without legalizing slavery. The Constitution has to be repealed, to make abortion lawful.

SCOTUS is not the Constitution. Any judge who can't tell the difference between SCOTUS and the Constitution needs a transfer to traffic court.

7. "...the defense of necessity asserted here cannot be utilized when the harm sought to be avoided (abortion) remains a constitutionally protected activity and the harm incurred (trespass) is in violation of the law." *State v. O'Brien,* 784 S.W.2d 187, 192 (1989)

This ruling violates Roe by not allowing fact-finders to "establish" what Roe said "of course" would transfer constitutional protection from baby killers to babies.

8. "Because the harm sought to be prevented is not recognized as an injury under the law, the defense of necessity is insufficient **as a matter of law** and the court properly refused to allow the defendant to raise it." *State v. Clarke*, 24 Conn.App. 541, 590 A.2d 468, cert. denied 219 Conn. 910, 593 A.2d 135 (1991)

"Cert. denied" means this was appealed to the Supreme Court but the Court declined to hear it. Tens of thousands of arrests,

thousands of jury trials where the "triers of facts" were not allowed to hear the only contested fact of the trial, which was a dispositive fact, and the Supreme Court refused to hear a single appeal of that wholesale violation of the constitutional right to "trial by jury".

☙ More about **(If babies are people we can't murder them was) a holding which no court has disputed**

Excerpt from Footnote #1, Finding #1 by Schluetter: "of those Justices on the Supreme Court who have urged reversing *Roe*, not one...attempted to make or even respond in their opinions to the unborn person interpretation." [In other words, even though not even the most liberal justices have *denied* that babies are real people, yet not even the most conservative justices consider the indisputable evidence worth mentioning.]

Dobbs v. Jackson, which overruled Roe in 2022, likewise left Roe's hypothetical in place, saying "our decision is not based on any view about when a State should regard pre-natal life as having rights or legally cognizable interests...."

☙ More about **"[The abortionist's lawyer] 'conceded' that 'if...personhood is established', then the 'case' for legal abortion 'collapses' "**

Read it for yourself at *Roe v. Wade,* 410 U.S. 113, 156-157 (1973) (Case citation explanation: In italics are the two parties to the controversy – the plaintiff, who sued, and the defendant, who was sued. "410" means the 410th book in the wall full of thick books titled "U.S. Reports", which is a copy of all the SCOTUS rulings since SCOTUS was created by the U.S. Constitution. "113" is the page number where the ruling begins. Pages 156-157 are where the quote is found.)

> "The Roe Court demurred on the central inquiry. [They objected to its relevance, as if saying "so what?"] When the case was decided, the presence of a life inside a mother's womb was a debatable topic, largely informed by religious and philosophical perspectives. [Page 159-60 in the *Roe* ruling is where the ruling passed] on "the difficult question of when life begins," referencing differing belief systems). Wary of decreeing the precise moment of life, whether at conception, birth, or some time in between, the *Roe* Court rejected *life* as a marker and settled on *viability* as [the]

way to denote the State's interest." (Amicus brief filed in *Dobbs v. Jackson* by Center for Religious Expression www.supremecourt.gov/ DocketPDF/19/19-1392/185542/20210802162418144_19-1932%20Amicus%20Brief%20of%20Center%20for%20Religious%20Expression.pdf)

5 More about "Dobbs: 'our decision is not based on...when a State should regard pre-natal life as having rights'...."

Dobbs v Jackson, 945 F. 3d 265, 597 US _ (2022)
(No page numbers are given in the official citation.)

6 More about "Dobbs did *not* say voters should still decide whether babies can be murdered in the face of proof that *babies are in fact people*."

Dobbs didn't say that even in the face of irresistible evidence that the littlest humans are fully human, voters should *still* decide whether to keep murdering them.

Dobbs does *not* say either that (1) it is impossible or impermissible for "abortion kills a human being" to graduate from a "sincere belief" to a "fact"; or that (2) even if that fact is established, that won't make abortion legally recognizable as murder; or that (3) even after abortion is legally recognizable as murder, voters should *still* get to decide whether to keep it legal. For further analysis of Dobbs see my review at http://savetheworld.saltshaker.us/wiki/Troubling_Excerpts_&_Analysis_from_Dobbs_v._Jackson

But Justice Kavanaugh came close. So his reasoning needs to be understood and corrected.

His logic, in his *Dobbs* Concurrence, fully rejects "equal protection of the laws" for little humans. By his logic, my "view" of your human worth *to me* must dictate whether it is legal for me to kill you. If you interfere with my "personal and professional life", you need to go.

No exaggeration. He actually wrote that the abortionist morality of killing babies to improve "women's personal and professional lives [to] achieve greater freedom" is equivalent to the prolife morality of

"all life should be protected". He thinks both "interests" show equal "good faith".

He said that as he criticized the one or two of the 140 Amicus Briefs filed in Dobbs that said that since babies are people, killing them should be outlawed. He wrote,

> "Some amicus briefs argue that the Court today should not only overrule Roe and return to a position of judicial neutrality on abortion, but **should go further and hold that the Constitution outlaws abortion throughout the United States. No Justice of this Court has ever advanced that position.** I respect those who advocate for that position, **just as I respect** those who argue that this Court should hold that the Constitution *legalizes* pre-viability abortion throughout the United States. But both positions are wrong as a constitutional matter, in my view. The Constitution neither outlaws abortion nor legalizes abortion.
>
> "The Constitution does not grant the nine unelected Members of this Court the unilateral authority to rewrite the Constitution to create new rights and liberties based on *our own moral or policy views."*

Well no, we don't want America shackled to Kavanaugh's *moral or policy views.* But America would be blessed to have him rule based on *reality.*

Kavanaugh writes, "The text of the Constitution does not refer to or encompass abortion....a right to abortion is not deeply rooted in American history and tradition...."

Thank you for noticing. Let us pray for the day you will notice that the converse *is* true according to Dobbs' own review of 50 early court rulings and laws, though Dobbs didn't explicitly point this out: the right of babies to live IS "deeply rooted in American history and tradition". Although...

"Deeply rooted in American history and tradition" is a stupid, cruel criteria for whether to protect a fundamental right.

"Deeply rooted in American history and tradition" is a silly basis for legalizing genocide. By that criteria, treated as so important by court precedents and legal scholars, slavery should never have ended, because freedom for all blacks was certainly *not* "deeply rooted in American history and tradition"! This silly criteria is a distraction from what DOES matter: the FACT that babies are people, which makes killing them legally recognizable as murder.

SCOTUS should have noticed by now, and corrected, its selective, agenda-serving inconsistency. SCOTUS certainly didn't overturn Texas' sodomy laws, or require states to respect sodomite marriage, because civil rights for sodomites including "marriage" are "deeply rooted in American history and tradition"!

> (Amicus of LONANG Institute filed in Dobbs v. Jackson:) Denying the textual meaning of legal words is not a novel invention of the Court. Instead, it has historical precedent going back to the first recorded case in human history. At issue in that case, In Re: Adam, Eve & the Devil, 3 Genesis 1 (0001), was the intent and meaning of a statute prohibiting consumption of fruit from a specific tree in a Garden in Eden. A statute prohibiting such consumption was at issue. Two of the parties violated the statute and entered a guilty plea. A second statute prohibited various forms of fraud and deception. A third party was charged under this statute alleging he used deception to induce co-defendants to consume the prohibited fruit.
>
> At trial, he argued that he was not liable on the theory that the first statute did not actually prohibit consumption—that the words in the statute did not mean what the text declared. [Plausible but not recorded interaction between God and Satan. That is *probably* how Satan argued then, or at least would have argued had not The Judge imposed an *in limine* restriction on defending himself at all after Eve accused him, because that is how his servants still argue today.] As such he argued that he did not engage in deceit in his statements to the other parties. The Court was unpersuaded. It rejected the argument, finding that the prohibition was clear and unambiguous, reflected the drafter's original intent and was, therefore, enforceable as written.
>
> This Court's fourteenth amendment substantive due process jurisprudence is based on the same argument first made in Eden—the words of the law do not mean what they say. The Court has maintained the amendment itself contains a substantive due process clause into which the Court is empowered to pour un-enumerated fundamental rights of its own divination.
>
> The Court's atextual adjustments, purportedly limited by the outcome-flexible concept of "judicial restraint," have been internally justified by its moral appeals to novel high-sounding phrases such as "implicit in the concept of ordered liberty,"

> [Griswold v. Connecticut, 381 U.S. 479, 500 (1965)] or the "concept of personal liberty," [Roe v. Wade, 410 U.S. 113, 153 (1973)] or "deeply rooted in this nation's history and tradition," [Washington v. Glucksberg, 521 U.S. 702, 721 (1997)] or "inherent in the concept of individual autonomy." [Obergefell v. Hodges, 576 US 644; 135 S. Ct. at 2629 (2015)] Alas, none of these phrases have textual support in the amendment itself. Nor has the Court been granted any state legislative power in Article III to define ordered or personal liberty, individual autonomy, or traipse through history and tradition to discover and append any un-enumerated substantive individual rights into the amendment's textually non-existent "substantive" due process clause. Nor does the law of nature of judicial review empower this Court to write new Constitutional text. The authority of a judge is to declare what written law already exists. The standard legal maxim is, Jus dicere, et non jus dare, also known as judicis est jus dicere non dare. The province of a judge is to declare the law, not to make it. At what point in time and on whose authority did that rule, binding on judges in England and America for centuries, become nonbinding? [http://www.supremecourt.gov/DocketPDF/19/19-1392/185037/20210727131024868_19-1392 tsac Lonang Institute.pdf]

(This is a preview of the final section of this book which builds on Justice Thomas's dissents and concurrences in which he traces the history of how SCOtUS transformed Congress' 14th Amendment authority to enforce rights specified in the Constitution into its own authority to enforce rights which it made up by itself.)

The only value of historical laws and precedents is their testimony about the FACT that babies are people, since judges and legislatures are court-recognized *fact* finders. But today's fact finders, informed by advances in medical science about when human life begins, at least physically, are better informed.

Back to Kavanaugh: If courts must be silent on murder, what crime is enough greater to merit their involvement? Slavery isn't a greater crime! Slavery is surely a lesser crime than dismemberment, so if people in "blue states" should vote on whether they can murder by dismemberment, people in Southern states have a far greater right to vote on whether to have slaves! (Although today blacks would not be the likely target for slavery, but rather "illegals".)

(Although today it is not Southern states most likely to vote for

slavery, but "blue states", since Democrats defended slavery militarily through 1865, terrorized black Republicans for decades past 1865, opposed Martin Luther King's reforms by wider margins than Republicans in Congress, and today cruelly treat "disloyal" black conservatives like Justice Clarence Thomas. On the other hand "red states" will more likely vote for slavery if those to be enslaved are, instead of blacks, undocumented immigrants. But I digress.)

Kavanaugh thinks it is compelling evidence that not even Scalia, Thomas, or White ever said no state should be allowed to legalize murdering babies because they are people. (...**No Justice of this Court has ever advanced that position.** ...) Kavanaugh here explicitly dismisses *the only FACTor that matters:* not what our ancestors thought, not whether baby killers "argue forcefully", not what any law, precedent, or even Constitution says: but the FACT that babies are people. That fact, established, makes Kavanaugh seem callous at best and satanic in his regard for human life at worst.

> **Pretending judges can't tell if babies of humans are humans, as Roe did, is a sophistry no longer believable if it ever was. When judges profess greater ignorance than that of children, they should not claim to know better than state legislatures.**

ℤ More about **"Dobbs left in place Roe's observation that...this fact, independently of any...future constitutional amendment, dictates whether abortion is legal..."**

Professor Nathan Schluetter argued that numerous prolife leaders err in thinking some kind of "Life Amendment" to the Constitution is needed before prolifers can think about outlawing abortion in every state, as if the 14th Amendment, plus all the evidence we now have, isn't enough. As if meanwhile, justice is so blind that voters will have to decide whether to keep murdering babies, not on the basis of the fact that babies are people, which we supposedly still can't know, but on the basis of babies' value to voters! (See Finding #1, Note #1.)

Do you agree with Schluetter and me, that such agnosticism is error? Evil, cruel, God-defying error? Or do you agree with

conservative justices and with many top prolife leaders that it is a great thing for *voters* to decide whether to perpetuate mass murder?

Schluetter's final paragraph from the more complete excerpt in note 1, Finding #1:

"However well-intentioned, the arguments of the restoration [to voters of the decision whether to legalize murder] advocates [including the conservative SCOTUS justices and several prominent prolife leaders] are usually grounded in an epistemological skepticism that is alien to normal constitutional interpretation and harmful to the political morality on which free government is based."

8 More about **"whether abortion is...a right or a crime"** [is settled by the fact that babies are people, said Roe, an observation which Dobbs did not challenge]**"**

Schlueter, in his 2003 debate with Judge Bork, wrote that the reasoning of Roe and Casey "leaves out of the equation" the same thing that Dobbs later left out in 2022:

> "**the paramount question of the status of the unborn child. The Justices write as if this question can be ignored or constitutes merely a "value judgment" about which reasonable people can disagree.** Justice Antonin Scalia himself explicitly asserts this latter position in his dissenting opinion to the *Casey* decision: 'There is of course no way to determine that [i.e., whether the human fetus is a human life] as a legal matter; it is in fact a value judgment. Some societies have considered newborn children not yet human, or the incompetent elderly no longer so.'
>
> "But if the status of the unborn child is merely a value judgment, then there is at least a plausible argument that the states have no right prohibiting abortion, especially when one considers the considerable burden an unexpected, unwanted, or dangerous pregnancy can place on a woman. Indeed, Justice Scalia's arguments have a frightening moral and epistemological agnosticism at their center."

9 More about **"This established fact is not disestablished by any judge's alleged inability to**

understand it."

> "Texas urges that, apart from the Fourteenth Amendment, life begins at conception and is present throughout pregnancy, and that, therefore, the State has a compelling interest in protecting that life from and after conception. 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.**" *Roe v. Wade,* 410 U.S. 113, 159 (1973)

Priests For Life wasn't awed by what a difficult question that is, or by the Court's OK with not "resolving" it. PFL introduced the quote with "When deciding Roe v. Wade, this Court infamously stated...." PFL *named* the "religion" upon which that apathy about murdering babies was based, and noted the similarity of *Roe* (which protected baby killers) with *Dred Scott v. Sandford* (which protected slave owners' "property rights" to their slaves):

> Consistent with this veiled philosophical pronouncement —a pronouncement grounded in secular positivism—a majority of the justices concluded that the U.S. Constitution "does not define 'person,'" leading the Court to ultimately conclude that "the word 'person,' as used in the Fourteenth Amendment, does not include the unborn." Id. at 158.
>
> The Court's ruling in Roe v. Wade is similar to how the Court had previously concluded in the infamous Dred Scott decision (Dred Scott v. Sandford, 60 US 393 (1857)) that people of color were not legal "persons" as a matter of federal constitutional law. Unfortunately, it took a civil war to correct this injustice.

(Actually *Scott v. Sandford* described slaves as "a class of persons" several times, but denied that they were "people of the United States", since the Constitution treated that phrase as synonymous with "citizens", and Africans certainly weren't "citizens". I don't think the 140 page decision noticed the contradiction that blacks were "persons" but not "people" even though they are forms of the same word. The myth that the words have such different meanings that some people aren't "persons" has been so prevalent among prolifers that I address it

in Statement of Fact #8, as well as later in this Statement.)

Roe acknowledged the testimony of only one fact finder: Texas Attorney General Wade. Roe v. Wade, 410 U.S. 113, 159 (1973) (Although Dobbs later corrected Roe's history with 50 examples of earlier state laws and court rulings. See Appendix A, with footnotes #69-119, DOBBS v. JACKSON WOMEN'S HEALTH ORGANIZATION 945 F. 3d 265, 597 US _ (2022)

10 More about **"This established FACT is not made irrelevant by any judge's theory that the legal right of little humans to live is 'impossible' to determine so it should be decided by their value to big humans."**

> "There is, of course, no way to determine [whether the unborn are human] as a legal matter; it is, in fact, a value judgment. Some societies have considered newborn children not yet human, or the incompetent elderly no longer so." Concurrence/Dissent by Scalia, Thomas, White. *Planned Parenthood v. CASEY*, 505 U.S. 833, 982 (1982)

Is pagan dehumanization of vulnerable people groups our new model for American law, instead of "All men are created equal, and endowed by their creator with certain unalienable rights"? Dehumanization by pagan religions and nations extends also to immigrants, women, children, "disbelievers", and anyone who criticizes the government or the government-favored church, or anyone any bureaucrat doesn't like. And this is what Scalia and Thomas urge?

Professor Schluetter writes,

> This "leaves out of the equation the paramount question of the status of the unborn child. The Justices write as if this question can be ignored or constitutes merely a "value judgment" about which reasonable people can disagree....
>
> "But if the status of the unborn child is merely a value judgment, then there is at least a plausible argument that the states have no right *prohibiting* abortion, especially when one considers the considerable burden an unexpected, unwanted, or dangerous pregnancy can place on a woman. Indeed, Justice Scalia's arguments have a frightening moral and epistemological

agnosticism at their center....

"By making the determination of human life a value judgment, Justice Scalia forecloses the possibility that any scientific proof or rational demonstration can establish that an unborn child is a human being. Indeed, he ultimately forecloses the possibility that there can be any rational discussion of the matter at all, insofar as values by their very nature are subjectively determined.

"Taken to an extreme, as Justice Scalia's legal positivism in this matter seems to do, **democracy becomes the simple exercise whereby the powerful define for themselves their 'own concept of existence, of meaning, of the universe, and the mystery of life,' to use the famous words of the majority opinion in the *Casey* decision**. In such a universe, constitutional government is superfluous. One is strongly reminded of Lincoln's arguments with respect to slavery: 'If [the Negro] is *not* a man, why in that case, he who *is* a man may, as a matter of self-government, do just as he pleases with him. But if the Negro *is* a man, is it not to that extent a total destruction of self-government to say that he too shall not govern himself?'....

"It cannot be too strongly emphasized that whether or not an unborn child is [in fact] a human being is *the* critical question in this debate, and the question was definitively answered decades ago. Whatever might be said for an earlier time, today there can be no scientific disagreement as to the biological beginning of human life. Embryology, fetology, and medical science all attest to the basic facts of human growth and development, and medical textbooks for decades have declared that distinct and individual human life begins at conception. Contrary to Justice Scalia's assertion, this is not a value question any more than that of whether an acorn is an oak tree." See a debate with Judge Bork. www.firstthings.com/article/ 2003/01/constitutional-persons-an-exchange-on-abortion

Equal protection of the laws is a principle throughout the Bible but not found in other religions. For example,

Exodus 12:49 (BBE) The law is the same for him who is an Israelite by birth and for the man from a strange country who is living with you.

Leviticus 24:22 You are to have the same law for a man of

another nation living among you as for an Israelite; for I am the Lord your God.

Numbers 15:15 One ordinance shall be both for you of the congregation, and also for the stranger that sojourneth with you, an ordinance for ever in your generations: as ye are, so shall the stranger be before the LORD. 16 One law and one manner shall be for you, and for the stranger that sojourneth with you.

Galatians 3:28 (CEV) Faith in Christ Jesus is what makes each of you equal with each other, whether you are a Jew or a Greek, a slave or a free person, a man or a woman.

Colossians 3:11 (CEV) It doesn't matter if you are a Greek or a Jew, or if you are circumcised or not. You may even be a barbarian or a Scythian, and you may be a slave or a free person. Yet Christ is all that matters, and he lives in all of us.

11 More about "Slavery states would merely need to classify their victims as only 3/5 human."

This statement is legally correct, but just for the record, it is a popular misunderstanding that this is what our Constitution actually did to blacks in 1789: classify them as only 3/5 human, as is presumed by this 2010 song whose purpose was to explain history:

> "Am I just three fifths of a man?
> Broken back and calloused hands
> Giving my very life to the land
> Am I just three-fifths of a man?"
> Youtube: https://www.youtube.com/watch?v=emcKV9sq7Fc

Clarifying this misunderstanding probably doesn't contribute to saving babies, but just for the record, not even *one* fifth of unborn babies or "Indians not taxed" were counted, with no insinuation that they were any less than 5/5 human:

> Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a term of years, and excluding Indians not taxed, three-fifths of all other Persons. - *the U.S. Constitution, Section 2, Paragraph 3, 1st sentence.*

As you can see, the Census had two purposes, neither of which was related to any dehumanization of blacks. One reason was to calculate each state's share of taxes it must pay to the federal government. There was no income tax then, so based on their proportionate population, states paid the bill directly, which is why it was called a "Direct Tax". Southern states *didn't want to count slaves at all* for *this* purpose, so they wouldn't have to pay very much taxes, while Northern states would have liked to count each slave as *5* people so the Southern states would pay *more* of the needed taxes! After all, slaves were worth a lot of money!

The other reason for counting people was to give states Congressmen in proportion to their population. So Southern states wanted to count each slave as *10* people so they could have lots of Congressmen, while Northern states (who did have slaves because British governors wouldn't let states outlaw slavery, but far fewer) wanted to count each slave as zero because they didn't want Southern states to have *any* Congressmen, and certainly no more than proportionate to the number of people with political rights.

3/5 was their compromise between those two purposes. The Civil War might not have been necessary had the South not had bloated numbers of Congressmen voting to protect slavery. It would have been more just and logical, and it might have saved three quarters of a million lives, to not count *any* part of the slave population towards apportioning congressmen. But it had nothing to do with how human anyone thought blacks were, and my observation (that slavery might have more peacefully ended had slaves been counted as zero towards giving Southern states more Congressmen) does not mean *I* regard blacks as not even 3/5 human!

The modern revisionist myth that the 3/5 proportion somehow meant America's Founders regarded blacks as that much less than human barely occurred, if it did at all, to the people of that time. This is evidenced by the fact that the 3/5 ratio was never mentioned in all 240 pages of the 1857 *Dred Scott v. Sandford* decision, which helped spark the Civil War by ruling that blacks were "persons whom it was morally lawfully to deal in as articles of property and to hold as slaves" but not "citizens" even if they were free, and thus had zero rights in courts. It did not occur even to those monsters to see validation in that ratio of their fanatical dehumanization of blacks.

Encyclopedia Brittanica reports:

> Granting slaveholding states the right to count three-fifths of their population of enslaved individuals when it came to apportioning representatives to Congress meant that those states would thus be perpetually overrepresented in national politics. However, this same ratio was to be used to determine the federal tax contribution required of each state, thus increasing the direct federal tax burden of slaveholding states.
> www.britannica.com/topic/three-fifths-compromise

12 More about **"The 14th Amendment protects those who are IN FACT people – what is irrelevant is whether babies are people 'as a matter of law'."**

State supreme courts ruled in Operation Rescue-type cases that Roe made babies non-persons "as a matter of law", so therefore evidence that babies are *in fact* people was irrelevant, and therefore juries weren't allowed to know about it. Roe said no such thing, but the opposite: that such evidence would "of course" be dispositive.

Should we use the word "people" vs. the word "persons"?

Prolife grammar got weird when *Roe* talked about the word "persons" in the 14th Amendment. It has been imagined not only that there is some unfathomable though intimidating difference not only between "persons" and "humans" but also between "persons" and "people". Only divas with J.D. degrees have a right to understand how these differences truly do justify murdering 70 million babies. It is for the unwashed masses to step back in grateful awe.

We unworthy, insufficiently educated prolifers, though unable to grasp exalted baby killing grammar, and similarly unable to grasp the justice of baby killing, poke around these strange words in our desperate effort to communicate with the divas. Hence our emphasis on using the word "persons" in "personhood" statements and amendments, not, Heaven forbid, the word "people".

But they are the same word.

I realize what a shock this is to say such a thing. Blasphemy, or something like. But check with a grammar website. They are the same word. The only difference is that "people" is the normal way to talk. "Persons" isn't. That's the only difference. That's the only reason judges talk about "persons".

Well, that, and the fact that the 14th Amendment used the word "persons" when that word choice was more normal, so when judges

and lawyers today talk about it, they quote the same word. Just as we Christians quote the words of the King James Version, even though some of them sound weird, just to be accurate.

Perhaps if we insist on talking normally, despite the social pressure, the divas will retreat from their abnormal usage, seeing it no longer intimidates, no longer shields them from our questions about how murdering 70 million babies can be just.

But you don't believe me, do you? So here is from a grammar website: [https://dictionary.cambridge.org/grammar/british-grammar/person-persons-or-people]

> Grammar > Easily confused words > *Person*, *persons* or *people*? from English Grammar Today
>
> We use *person* in the singular to refer to any human being: "*Joel is such a nice person." "She's a person I have a lot of respect for."*
>
> *Persons* (plural) is a very formal word. We only use it in rather legalistic contexts: "*Any person or persons found in possession of illegal substances will be prosecuted."*
>
> To refer to groups of human beings or humans in general, we use *people*: "*I saw three people standing on the corner." (*Not: "I saw three persons …") "*Jim and Wendy are such nice people." "People are generally very selfish." "Three people were interviewed for the job, but only one person had the right qualifications and experience."*

Part 2: The Power of Personhood

No Greener Light, than the laws, findings, and precedents we already have, is required for legislatures to outlaw abortion and expect courts to stay out of the way of saving lives.

Waiting for a "Life" amendment to the Constitution is an excuse to avoid the heart of the battle for a while longer, because that would be a weaker tool than Truth has already: *irrefutable evidence.*

Waiting for "hearts to change" is an excuse to put off for another year taking *irrefutable evidence* precisely where it has the greatest power to soften hearts: into the drafting of bills destined to be "reviewed" by courts.

The legislative process, with its advancement of bills from subcommittees to committees to full chambers to the other chamber to the governor's desk (president's desk, in the case of Congress) presents continuous opportunities for hearts of the public to soften by comparing the devil's screams with the Truth.

This public education makes politically possible what was impossible while Truth was bottled up: both by softening public hearts towards God's most innocent to support saving them, and by explaining the legal sophistry by which judges have rinsed their hands in the blood of sixty millions, so that as judges continue it, the public will support judicial reforms by legislatures.

Luke 22:24 And there was also a strife among them, which of them should be accounted the greatest. 25 And he said unto them, The kings of the Gentiles exercise lordship over them; and they that exercise authority upon them are called benefactors. 26 But ye shall not be so: but he that is greatest among you, let him be as the younger; and he that is chief, as he that doth serve. 27 For whether is greater, he that sitteth at meat, or he that serveth? is not he that sitteth at meat? but I am among you as he that serveth.

How excited the world is about any ceremonies, parades, or gossip involving the English monarch or the Roman Pope! That public admiration was enjoyed by virtually every king and dictator throughout human history, even when they used their great power to enslave, torture, and murder their critics. Despite their terror, they were seen as "beneficial", as Jesus observed. They were even worshiped as "gods", as in Japan until 1945 and in North Korea today.

Jesus honors service: moms *serving* their babies, not vice versa; the public *saving* babies, not just their own comfort. God serves us, and recruits partners. The two systems are precursors of Heaven and Hell.

(Definition: something that happened or existed before another thing, especially if it either developed into it or had an influence on it.)

Finding #4: Heartbeats & Brain Waves are Legally Recognized Evidence of Life.

Detectable heartbeats and brain waves are evidence that a person has not yet died, throughout state and federal law.[1] Reason demands they be accepted as evidence that a person has begun to live.[2] 10/43 words

1 More about "...throughout state and federal law."

https://www.hopkinsmedicine.org/news/articles/the-challenges-of-defining-and-diagnosing-brain-death

Virtually the same thing is meant when Leviticus 17:11 says "the life of the flesh is in the blood...." The existence in a physical body of flowing blood is proof of life.

Before animal meat may be eaten, according to the Bible, its blood must be drained. Genesis 9:4 "...flesh with the life thereof, which is the blood thereof, shall ye not eat."

Shedding blood guarantees and certifies death. "Shedding blood" of a man kills the man. Genesis 9:6 "Whoso sheddeth man's blood, by man shall his blood be shed: for in the image of God made he man."

2 More about "...evidence that a person has begun to live."

The link at footnote one is about using the cessation of brainwaves and heartbeats to document when life ends. This footnote is about the beginning of brainwaves and heartbeats to document when life begins.

The expert medical evidence in the amicus briefs filed in Dobbs are an especially useful source of this documentation for lawmakers because (1) it is prepared by America's top legal experts for a purpose which requires the most exacting, irrefutable preparation, (2) it is presented in the kind of court language which lawmakers need for their legal arguments for each other and for consideration in Findings of Facts of bills, and (3) it comes with a context of Supreme Court case citations all ready for lawmakers to Findings of Facts or Resolutions.

Five of the 140 Amicus Briefs filed in *Dobbs v. Jackson* (2022) address brainwaves and heartbeats. A sixth Amicus only has a little about heartbeats. The Amicus with the most detail is from the American College of Pediatricians, below. Here are the paragraphs from the six briefs about brainwaves and heartbeats, with footnotes and links where you can find more documentation:

American Association of Prolife Obstretricians [http://www.supremecourt.gov/DocketPDF/19/19-1392/148145/20200720153839672_19-1392%20Amici%20Brief%20AAPLOG.pdf]

> Mississippi's law is partially based on legislative findings pertaining to the advanced development and humanity of pre-born children at the gestational age of fifteen to twenty weeks. Pet. at 7-9. At twenty two days, the child's heart begins to beat. https://www.ehd.org/your-life-before-birth-video/ (last visited July 15, 2020). At six weeks, the child begins moving. Id. At seven weeks, scientists can detect a child's brainwaves, and the child can move his or her head and hands. Id. The child displays leg movements and the startle response. Id. At eight weeks, the child's brain exhibits complex development. Id (Page 18)

Jewish Prolife Foundation [http://www.supremecourt.gov/DocketPDF/19/19-1392/184580/20210721170924501_41204%20pdf%20Parker.pdf]

This tragic human rights violation must be remedied. The Mississippi law in this case seeks to protect the God-given right to life for babies of 15 weeks gestation and beyond. Yet, most significant developmental milestones occur during the first eight weeks following conception. A baby's heart beats at 22 days, and her brainwaves can be measured at 6 weeks. At 9 weeks all internal organs are present and the baby is sensitive to touch.[4] As early as 8 weeks, the "infant"[5] feels real physical pain during an abortion.[6] This is much sooner than the 15-week issue before the Court, a gestational age when the pain felt by the baby must surely be considered. Jeremiah 22:3 admonishes us to avoid causing pain and death to the powerless: "Do what is right and just; rescue the wronged from their oppressors; do nothing wrong or violent to the stranger, orphan or widow; don't shed innocent blood in this place."

Footnotes:

4 Endowment for Human Development. Prenatal Summary. https://www.ehd.org/prenatal-summary.php

5 Gonzales 159, 160

6 5 Gonzales 159, 160.

6 Expert Tells Congress Unborn Babies Can Feel Pain Starting at 8 Weeks. Ertelt, Steven. May 23, 2013. LifeNews. https://www.lifenews.com/2013/05/23/expert-tells-congress-unborn-babies#can-feel-pain-starting-at-8-weeks/

Center for Medical Progress and David Daleide www.supremecourt.gov/DocketPDF/19/19-1392/185155/20210728163153060_Amici%20Brief%20of%20CMP-Daleiden.pdf]

1. By 15 weeks' gestation, the human infant in the womb unmistakably manifests "the human form" identical to any other member of our community. Gonzales v. Carhart, 550 U.S. 124, 160 (2007). Ironically, it is precisely from this point when the fetus becomes most recognizably a fellow human being, that the fetuses vulnerable to abortion become most useful as an experimental biologic "resource." Even though **four-month-old infants in the womb** move, kick, suck their thumbs, hiccup, and **demonstrate a readily discernable heartbeat and brainwaves**, App. 65a,[4] and even though the Constitution guarantees that "neither slavery nor involuntary servitude" shall exist in America nor that any person be deprived of life without due process of law, U.S. Const., amends. XIII § 1, XIV § 1, these same children can be routinely killed through livedismemberment abortions or trafficked and sold for experimental use. (Page 3)

Footnote: 4 Katrina Furth, Fetal EEGs: Signals from the Dawn of Life, ON POINT SERIES 28 (Nov. 2018), https://lozierinstitute.org/fetal#eegs-signals-from-the-dawn-of-life/; Winslow J. Borkowski & Richard L. Bernstine, Electroencephalography of the Fetus, 5(5) NEUROLOGY 362–65 (May 1, 1955)

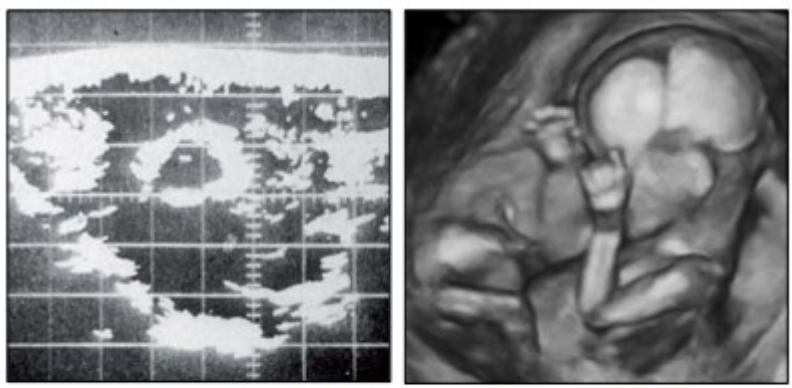
National Catholic Bioethics Center, et al. [www.supremecourt.gov/DocketPDF/19/19-1392/185239/20210729121001402_19-1392%20tsac%20National%20Catholic%20Bioethics%20Center.pdf]

Mississippi's law is partially based on legislative findings pertaining to the advanced development and obvious humanity of pre-born children at the gestational age of fifteen to twenty weeks. Pet. at 7-9. At twenty-two days, the child's heart begins to beat. https://www.ehd.org/your-life-before-birth-video/ (last visited July 15, 2020). At six weeks, the child begins moving. Id. At seven weeks, scientists can detect a child's brainwaves, and the child can move his or her own head and hands. Id. The child also displays leg movements and the startle response by that time. Id. At eight weeks, the child's brain exhibits complex development. Id. (p. 14)

American College of Pediatricians www.supremecourt.gov/DocketPDF/19/19-

2. What we know today—as uncontroverted scientific fact—is that the child develops much more quickly than the Court in Roe presumed. The Court then was told that "in early pregnancy . . . embryonic development has scarcely begun." Brief for Appellant at 20, Roe, 410 U.S. 113 (No. 70-18), 1971 WL 128054. But that is wrong. From conception, the unborn child is a unique human being who rapidly develops the functions and form of a child long before viability. (page 2-3)

At five weeks' gestation (just three weeks after conception),[1] the unborn child's heart starts beating. By six weeks, brain waves are detectable, and the nervous system is steadily developing. By seven weeks, the child can move and starts to develop sensory receptors. By nine weeks, the child's eyes, ears, and teeth are visible. By ten weeks, multiple organs begin to function, and the child has the neural circuitry for spinal reflex, an early response to pain. By twelve weeks, the child can open and close fingers and sense stimulation from the outside world. By fifteen weeks—when Mississippi's law limits abortions—the child can smile and is likely sensitive to pain. Medical interventions after this stage (other than abortion) use analgesia to prevent suffering. And by eighteen weeks, pain induces hormonal responses in the child. All this happens long before viability. Reflecting these advances in medical knowledge, ultrasound imagery available at the time of Roe looks much different from the imagery available today:



Fifteen-Week Ultrasounds Around 1973 when Roe *was Decided and Today*[2]

Page 11-12: During the fifth week, "[t]he cardiovascular system

is the first major system to function in the embryo," with the heart and vascular system appearing in the middle of the week.[33] By the end of the fifth week, "blood is circulating and the heart begins to beat on the 21st or 22nd day" after conception.[34]

By six weeks, "[t]he embryonic heartbeat can be detected."[35] Technological advances permit not only imaging detection at this early stage, but also videography of the unborn child, including footage of the child's heartbeat.[36]

After detection of a fetal heartbeat—and absent an abortion—the overwhelming majority of unborn children will now survive to birth.[37] "[O]nce a fetus possesses cardiac activity, its chances of surviving to full term are between 95%–98%."[38]

Also during the sixth week, the child's nervous system is developing, with the brain already "patterned" at this early stage.[39] The earliest neurons are generated in the region of the brain responsible for thinking, memory, and other higher functions.[40] And

Footnotes for Page 12:

34 Id. at 2662.

35 Id. at 2755.

36 See, e.g., Endowment for Hum. Dev., The Heart in Action: 4 Weeks, 4 Days, available athttps://www.ehd.org/movies/21/The#Heart-in-Action [https://perma.cc/GQN4-Q8QS] (last visited July 28, 2021) (showing footage of a heartbeat at six weeks); see also, e.g., Endowment for Hum. Dev., Your Life Before Birth (Mar. 18,

2019), available at https://vimeo.com/325006095 [https://perma.cc/6QBT-UWLK] (last visited July 28, 2021) (displaying

video footage of a child's development).

37 Joe Leigh Simpson, Low Fetal Loss Rates After Ultrasound Proved-Viability in First Trimester, 258 J. Am. Med. Ass'n 2555, 2555–57 (1987).

38 Forte, supra note 11, at 140 & nn.121–22 (footnote omitted) (collecting post-Casey medical research).

39 Thomas W. Sadler, Langman's Medical Embryology 72 (14th ed. 2019); see generally id. at 59–95.

40 See, e.g., Irina Bystron et al., Tangential Networks of Precocious Neurons and Early Axonal Outgrowth in the Embryonic Human Forebrain, 25 J. Neuroscience 2781, 2788 (2005).

(Page 13) the child's face is developing, with cheeks, chin, and jaw starting to form.[41]

At seven weeks, cutaneous sensory receptors, which permit prenatal pain perception, begin to develop.[42] The unborn child also starts to move.[43]

During the seventh week, "the growth of the head exceeds that

of other regions" largely because of "the rapid development of the brain" and facial features.[44]

At eight weeks, essential organs and systems have started to form, including the child's kidneys, liver, and lungs.[45] The upper lip and nose can be seen.[46]

At nine weeks, the child's ears, eyes, teeth, and external genitalia are forming.[47]

Unborn Child at Ten Weeks Rubbing Head[48]

Footnotes for page 13:

1 See Sadler, supra note 39, at 72–95. 42 Kanwaljeet S. Anand & Paul R. Hickey, Special Article, Pain

and Its Effects in the Human Neonate and Fetus, 317 New Eng. J. Med. 1321, 1322 (1987).

43 Alessandra Pionetelli, Development of Normal Fetal Movements: The First 25 Weeks of Gestation 98, 110 (2010). 44 Keith L. Moore et al., The Developing Human: Clinically Oriented Embryology 65–84.e1 (11th ed. 2020).

45 See Sadler, supra note 39, at 72–95.

46 Moore et al., supra note 44, 1–9.e1.

47 See Sadler, supra note 39, at 72–95; see also App. 66a.

48 Pionetelli, supra note 43, at 65 (2010).

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At ten weeks, vital organs begin to function, and the child's hair and nails begin to form.49 By this point, the neural circuitry has formed for spinal reflex, or "nociception," which is the fetus's early response to pain.[50] Starting around ten weeks, the earliest connections between neurons constituting the subcortical-frontal pathways—the circuitry of the brain that is involved in a wide range of psychological and emotional experiences, including pain perception—are established.[51]

At the time of Roe, "the medical consensus was that babies do

not feel pain."[52] Only during the late 1980s and early 1990s did any of the initial scientific evidence for prenatal pain begin to emerge.[53] Today, the "evidence for the subconscious incorporation of pain into neurological development and plasticity is incontrovertible."[54] Every modern review of prenatal

Footnotes for page 14:

49 See Sadler, supra note 39, at 106–127; Moore et al., supra note 44, at 65–84.e1; Johns Hopkins Med., The First Trimester, available at https://www.hopkinsmedicine.org/health/wellness#and-prevention/the-first-trimester[https://perma.cc/8N6H#M6CN] (last visited July 28, 2021); see also App. 66a.

50 See, e.g., Int'l Ass'n for the Study of Pain, IASP Terminology (last updated Dec. 14, 2017), available at https://www.iasp#pain.org/Education/Content.aspx?ItemNumber=1698#Nociception [https://perma.cc/5PV5-5T9H] (last visited July 28, 2021); see also App. 80a.

51 Lana Vasung et al., Development of Axonal Pathways in the Human Fetal Fronto-Limbic Brain: Histochemical Characterization and Diffusion Tensor Imaging, 217 J. Anatomy 400, 400–03 (2010).

52 Am. Coll. of Pediatricians, Fetal Pain: What is the Scientific Evidence? (Jan. 2021), available at https://acpeds.org/position#statements/fetal-pain [https://perma.cc/JM3T-XQV8] (last visited July 28, 2021).

53 Ibid.

54 Curtis L. Lowery et al., Neurodevelopmental Changes of Fetal Pain, 31 Seminars Perinatology 275, 275 (2007).

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pain consistently issues the same interpretation of the data: by ten to twelve weeks, a fetus develops neural circuitry capable of detecting and responding to pain.[55]

Even more sophisticated reactions occur as the unborn child develops further.[56] And new developments have provided still more evidence strengthening the conclusion that fetuses are capable of experiencing pain in the womb.[57]

Footnotes for page 15:

55 See, e.g., Carlo V. Bellieni & Giuseppe Buonocore, Is Fetal Pain a Real Evidence?, 25 J. Maternal-Fetal & Neonatal Med. 1203, 1203–08 (2012); Richard Rokyta, Fetal Pain, 29 Neuroendocrinology Letters 807, 807–14 (2008).

56 See Royal Coll. of Obstetricians & Gynaecologists, Fetal Awareness: Review of Research and Recommendations for Practice 5, 7 (Mar. 2010), available at https://www.rcog.org.uk/globalassets/documents/guidelines/rcogfetalawarenesswpr0610.pdf [https://perma.cc/4V84-TEMC] (last visited July 28, 2021); Susan J. Lee et al., Fetal Pain: A Systematic Multidisciplinary Review of the Evidence, 294 J. Am. Med. Ass'n 947, 948–49 (2005); see also App. 76a, 84a–85a.

57 See Lisandra Stein Bernardes et al., Acute Pain Facial Expressions in 23-

Week Fetus, Ultrasound Obstetrics & Gynecology (June 2021), available at https://obgyn.onlinelibrary.wiley.com/doi/10.1002/uog.23709?af=R [https://perma.cc/V8BU-PZK4] (last visited July 28, 2021)

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Moreover, by twelve weeks, the parts of the central nervous system leading from peripheral nerves to the brain are sufficiently connected to permit the peripheral pain receptors to detect painful stimuli.[68]

Thus, the unborn "baby develops sensitivity to external stimuli and to pain much earlier than was believed" when Roe and Casey were decided. MKB Mgmt. Corp. v. Stenehjem, 795 F.3d 768, 774 (8th Cir. 2015) (cleaned up).

Footnote for page 17:

68 Sekulic et al., supra note 65, at 1034–35.

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By eighteen weeks, the child can hear his or her mother's voice, and the child can yawn.[87] The nervous system in the brain is also developing the circuitry for all the senses: taste, touch, smell, sight, and hearing.

Footnote for page 21:

87 Ibid.; see also Cleveland Clinic, Fetal Development: Stages of Growth (last updated Apr. 16, 2020), available at https://my.clevelandclinic.org/health/articles/7247-fetal#development-stages-of-growth [https://perma.cc/YG92-KRH4] (last visited July 28, 2021).

Page 25:

Around twenty-six weeks, the child's eyes open, and he or she can fully see what is going on around him or her.[106] Brain wave activity increases throughout this period.

Footnote:

106 Johns Hopkins All Children's Hosp., A Week-by-Week Pregnancy Calendar: Week 26, available at https://www.hopkinsallchildrens.org/Patients-Families/Health-Library/HealthDocNew/Week-26?id=13484 [https://perma.cc/A8QG#XBPA] (last visited July 28, 2021).

World Faith Foundation and Institute for Faith and Family [http://www.supremecourt.gov/DocketPDF/19/19-1392/185238/20210729120554370_19-1392%20tsac%20IFF.pdf]

The viability line is arbitrary, lacks constitutional support, and conflicts with legal principles in other contexts. Developments in medical technology expose the reality of a child in the womb worthy of

legal protection. “Emerging science never shows the unborn to be less than human; rather, each advancement further reveals the humanity of the developing child in all its wonder”—even at 15 weeks, the developing child has “fully formed eyebrows, noses, and lips,” and “the baby’s fully formed heart pumps about 26 quarts of blood per day.”[3]

Yet this Court has stubbornly maintained the viability line, reaffirming Roe’s “recognition of the right of the woman” to choose abortion “before viability . . . without undue interference from the State.” Casey, 505 U.S. at 846. Gonzales began by presuming the same principle and timeline (Gonzales, 550 U.S. at 146)—but on the next page described the unborn child as “a living organism within the womb, whether or not it is viable outside the womb” (id. at 147, emphasis added).

Footnote:

https://lozierinstitute.org/cli-experts-urge-scotus-to-catch-up-to#science-in-mississippi-abortion-case/; https://lozierinstitute.org/new-paper-coauthored-by-cli-scholars-examines-treating-the-patient#within-the-patient/. These articles described in further detail the baby’s fetal development at 15 weeks.

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Another critical development is the ability to detect a child’s heartbeat in the womb. Several years ago, the Eighth Circuit considered whether the state could prohibit abortions of “unborn children who possess detectable heartbeats.” MKB, 795 F.3d at 770. Experts testified that “fetal cardiac activity is detectable by about 6 weeks” although viability does not occur “until about 24 weeks.” Id. at 771. Sadly, the court concluded that Roe dictated the outcome but suggested that “good reasons exist for [this] Court to reevaluate its jurisprudence.” Id. at 774.

Ironically, no discussion or evidence of infant heartbeats is given in the amicus by Heartbeat International. [http://www.supremecourt.gov/DocketPDF/19/19-1392/185354/20210729164709878_Dobbs%20Amicus%20Brief%20-%20FINAL.pdf]. The word “heart” comes up 39 times, but only to state the organization’s name.

Matthew 10:38...he that taketh not his cross, and followeth after me, is not worthy of me. 39 He that findeth his life shall lose it: and he that loseth his life for my sake shall find it.

"An American bishop, explaining why he did not confront political leaders like John the Baptist (John rebuked Herod over incest, Nathan rebuked David over adultery covered up with murder, Ahijah rebuked Solomon and Elijah rebuked Ahab over child sacrifice) told this author plainly that *John the Baptist did not have to worry about real estate, money, and making mortgage payments.* He feared that if he spoke the truth...it could cause economic hardship on him and his diocese.

"This financial justification is the defining sin of the hireling. Jesus said that the hireling flees when he sees the wolf coming.... The true shepherd lays down his life for his sheep.

"...most Catholic bishops in North America and Europe will serve Holy Communion to the political child killers...and give specious arguments why they should not 'politicize' communion....And when a faithful bishop has the courage and integrity to withhold communion from a known proponent of child killing, he is criticized and ostracized by his 'brother bishops'. Many of them will tell the sin-serving politician, 'you can have communion in my diocese.' It is horrifying.

"Many Protestant leaders and evangelical TV and radio stars are sadly cut from the same nonconfrontational 'hireling' cloth. They can reach...hundreds of millions, yet when it comes to calling out the sin of child killing or so-called homosexual marriage, they are eerily silent....

"If you vote for candidate X, who has promised you that he will use his powers to continue the holocaust of children, you share in the guilt for the babies...slaughtered. It does not matter if you have other issues upon which you agree...if he wanted to own slaves, would you vote for him? ...a majority of Roman Catholic parishioners vote for child killers...and one-third of evangelicals...the one major political party in America that promotes murder, sodomy, and the transvestite agenda would collapse without the treachery of the Catholic and evangelical votes."

-Randall Terry, "Divine Correction/How God Gets a Nation's Attention", p. 230-232. Terry was the founder of Operation Rescue, which helped organize many of the door-blockings of abortuaries, which generated over 60,000 arrests prior to 1993. His church took out a full page ad in the New York Times saying a vote for Bill Clinton was a sin. He was sued over his church's tax exemption. The courts ruled that the money spent on the ad was not exempt, and the IRS could withdraw its formal letter certifying that the church was exempt, but the church would still be exempt – exempt from paying sales and property taxes, and donations not earmarked for political purposes could still claim exemptions.

Finding #5: Legislatures should regulate abortion, as *Dobbs* held, just as legislatures regulate the prosecution of all *other* murders

But not in the sense of absolute discretion to leave wholesale murders of a supposedly unwanted group of humans completely unregulated. That interpretation of *Dobbs*' holding is premised on a "mistake of fact", which is an official exception to Stare Decisis.[1]

The "Mistake of Fact" that is the premise of letting voters decide whether to continue judge-approved genocide according to the "value" they place on little people is that the humanity of babies of humans is either unknowable or irrelevant. That premise was explicit in *Roe* and *Casey*, and implicit in *Dobbs*.[2]

That is an "erroneous factual premise". The fact that little unborn humans are humans is neither unknowable[3] nor irrelevant. It is verifiable and dispositive.[4] The consensus of court-recognized fact finders cures that knowledge deficit, canceling that interpretation of Dobbs' holding, while reinforcing Dobbs' other two holdings that "The Constitution does not confer a right to abortion" and "Roe and Casey are overruled", and requiring the outlawing of baby killing in every state.[5]

Official world-wide definitions of "crimes against humanity" apply "to

representatives of the State authority who tolerate their commission."[6] 22/200 words

1 More about **"a 'mistake of fact'...is an official exception to Stare Decisis protection."**

Justice Brett Kavanaugh, during his confirmation hearing, described Roe v. Wade as "precedent upon precedent", yet when asked by a Democrat about a precedent that *Democrats* don't like, (*Citizens United*), he explained that a "mistake of facts" is one of *Stare Decisis'* official grounds for overturning precedents. (*Stare Decisis means* "Let the decision stand". Precedents should be followed except when their errors are clear.) Here is an excerpt:

Whitehouse: "The hypothetical problem that I have has to do with an appellate court which makes a finding of fact. Asserts a proposition of fact to be true. And upon that proposition hangs the decision that it reaches. The question is, what happens when that proposition of fact...turns out not to be true?" ...

Kavanaugh: "[This is] wrapped up in a question of precedent and Stare Decisis. And one of the things you could look at, one of the factors you could look at, how wrong was the decision, and if it is based on an erroneous factual premise, that is clearly one of the factors... Mistakes of history. Sometimes there are mistakes of history in decisions and mistakes of fact." (Day 3 of the Brett Kavanaugh hearings. Beginning at from 4:52:11 to 4:53:50 of the video posted at www.youtube.com/ watch?v=mSyWoxGbpFg)

Connie Weiskopf and Kristine L. Brown, in the amicus brief they filed in *Dobbs v. Jackson*, said "As Justice Gorsuch wrote in his Ramos concurrence, **'stare decisis isn't supposed to be the art of methodically ignoring what everyone knows to be true.'** *Ramos v. Louisiana*, 590 U.S. __, __ (2020) (slip op. at 23)." [www.supremecourt .gov/DocketPDF/19/191392/185063/20210727174713396_FINAL_Brown_Weiskopf_Dobbs_ Amicus.pdf]

2 More about **"The** [mistaken] **premise... that the humanity of babies of humans is either unknowable or irrelevant...was explicit in Roe and Casey, and implicit in Dobbs"**

These quotes are repeated from earlier footnotes to Finding #3:

notes #1, 8, 10.

Dobbs v. Jackson explicitly ignored the central inquiry:

> There is ample evidence that the passage of these laws was...spurred by a *sincere belief that abortion kills a human being*. Many judicial decisions from the late 19th and early 20th centuries made that point....One may disagree with this belief (and **our decision is not based on any view about when a State should regard prenatal life as having rights or legally cognizable interests)**, but even *Roe* and *Casey* did not question the good faith of abortion opponents. See, e.g., *Casey*, 505 U. S., at 850 ("Men and women of good conscience can disagree . . . about the profound moral and spiritual implications of terminating a pregnancy even in its earliest stage"). DOBBS v. JACKSON WOMEN'S HEALTH ORGANIZATION 945 F. 3d 265

Planned Parenthood v. Casey said the central inquiry is beyond human knowledge:

> "There is, of course, **no way to determine [whether the unborn are human**] as a legal matter; it is, in fact, a value judgment. Some societies have considered newborn children not yet human, or the incompetent elderly no longer so." Concurrence/Dissent by Scalia, Thomas, White. *Planned Parenthood v. CASEY*, 505 U.S. 833, 982 (1982)

Roe v. Wade said if doctors and preachers can't resolve the central inquiry, mere judges certainly can't figure it out:

> "Texas urges that, apart from the Fourteenth Amendment, life begins at conception and is present throughout pregnancy, and that, therefore, the State has a compelling interest in protecting that life from and after conception. **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.**" *Roe v. Wade,* 410 U.S. 113, 159 (1973)

In other words, *Roe* passed on "the central inquiry", as the

Center for Religious Expression observes:

> "The Roe Court demurred on the central inquiry. When the case was decided, the presence of a life inside a mother's womb was a debatable topic, largely informed by religious and philosophical perspectives. [*Roe* passed] on "the difficult question of when life begins," referencing differing belief systems). (Amicus brief filed in *Dobbs v. Jackson* by Center for Religious Expression. www.supremecourt.gov/ DocketPDF/19/19-1392/185542/20210802162418144_19-1932%20Amicus%20Brief%20of%20Center%20for%20Religious%20Expression.pdf)

An interesting word, "demurred", was used by the Center for Religious Expression. It means whether or not the facts alleged are true, there is no case. No legal grounds to justify a prosecution. (See the variety of descriptions of the word at www.legaldictionary.net/demurrer/, www.en.wikipedia.org/wiki/Demurrer, www.dictionary.law.com/Default.aspx?selected=487, www.britannica.com/topic/demurrer, and www.dictionary.law.com/Default.aspx?searched= demurrer&type=1.)

Roe said "**We need not resolve** the difficult question of when life begins." As if that fact is irrelevant. As if whether or not it is true that babies of people are people, that is no legal reason to let states protect them.

But the complete quote, above, doesn't say "we need not resolve the...question" because *it doesn't matter*, but because the justices thought themselves *incompetent* to establish the fact. Doctors, philosophers, and theologians can't agree, so how can mere lowly Supreme Court Justices know if babies of humans are humans?

> "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." - *Roe*

That interpretation is consistent with, and demanded by, the other notorious quote from *Roe,* found a few times in this book and common in prolife fundraising letters, that if "personhood" is "established" then "of course" the case for legal abortion "collapses", since the 14th "Amendment" protects babies by not allowing *any* state

to legalize abortion.

I once "demurred" when it was time to plead "innocent" or "guilty" to the charge of "trespassing" at the door of a baby killer. Without disputing the facts, I saw no case, since it is not against American law to "trespass" in order to save lives.

But *Roe* didn't say the facts didn't matter, but the opposite: the fact that babies of people are people, once "established", is "of course" dispositive

☙ More about **"The fact that little unborn humans are humans is neither unknowable...."**

See Statement of Facts #1: "Court-recognized, court-tested Finders of Facts unanimously establish that unborn babies are fully human, which makes killing them legally recognizable as murder, which the 14th Amendment doesn't let *any* state legalize."

☙ More about **"The fact that little unborn humans are humans...is verifiable and dispositive."**

"Scrupulously neutral" was Justice Kavanaugh's idea, in his *Dobbs* concurrence, about how to keep an abortion ruling virtuous. But what virtuous person leaves the lives of millions to be decided by their value to voters?

Dobbs, like *Casey* and *Roe* before it, didn't answer that central question. But at least in *Roe* the hope was expressed that the termination of a baby would not extinguish the life of a human person:

> "Indeed,...we [in a previous case] would not have indulged in statutory interpretation favorable to abortion in specified circumstances if [we knew] the necessary consequence was the termination of life entitled to Fourteenth Amendment protection. This conclusion, however, does not of itself fully answer the contentions [that babies are people] raised by Texas..." – *Roe v. Wade* at 159. (The acknowledgment that Texas' "contentions" are not "fully answered" by the working assumption of a past case proves that this is *not* a positive statement that SCOTUS knows babies are *not* people.)

The hope expressed in *Roe* and ignored in *Dobbs* "that the termination would not extinguish the life of a human person...is no

longer factually tenable given the current state of scientific knowledge concerning the origin and development of the human fetus." So stated the Illinois Right to Life amicus submitted in Dobbs v. Jackson. [See www.supremecourt.gov/DocketPDF/19/19-1392/148202/20200720191618686_19-1392%20BRIEF%20FOR%20AMICUS%20CURIAE%20ILLINOIS%20RIGHT%20TO%20LIFE%20IN%20SUPPORT%20OF%20PETITIONERS.pdf] "Roe also rests on a determination that the humanity and personhood of a human fetus was not generally recognized in law. That legal context has changed as well."

Dobbs not only agreed, but proved "that legal context" (that personhood was not generally recognized in law) had *never even existed*. *Dobbs* corrected *Roe's* history, *showing* that protection of unborn babies was "well rooted in America's legal history" (although *concluding* only that abortion was not).

IRTL notes the growing consensus since *Roe* of legislatures, which *Roe* treated as court-recognized fact finders: "Among other changes in the law, fetuses are now protected as human beings under laws prohibiting fetal homicide. Other laws, such as 'heartbeat' laws and laws protecting against fetal pain, which are increasingly being enacted by the states, demonstrate their interest in protecting the youngest and most vulnerable humans. Finally, changes in the laws and the availability of social services that support and protect pregnant women have ameliorated the plight of pregnancy and lessened the burden of child-rearing. All of these changes rob *Roe* of its factual and legal underpinnings."

And rob *Dobbs* of any conceivable justification for its "scrupulous neutrality".

5 More about **"The consensus of court-recognized fact finders cures that knowledge deficit...requiring the outlawing of baby killing in every state."**

To select this one invidious [a favorite court word meaning unwanted, unloved, discriminated against] class of human beings – unborn babies – to be utterly unprotected from murderers is as prohibited by the 14th Amendment as designating any other class of human beings to be unprotected.

Examples from America's past: blacks, Indians, Jews, Catholics. Today, Christians, Jews, Republicans, undocumented immigrants.

More about **"...definitions of 'crimes against humanity' apply 'to representatives of the State authority who tolerate their commission.' "**

"A crime against humanity occurs
when the government withdraws legal protection
from a class of human beings
resulting in severe deprivation of rights,
up to and including death."
- *amicus in* Dobbs *of* Melinda Thybault/Moral Outcry

Melinda Thybault's *amicus brief* was the 20th *amicus* docketed in *Dobbs v. Jackson* (2022). (www.supremecourt.gov/DocketPDF/19/19-1392/184968/ 20210726175018044_41206%20pdf%20Parker%20III%20br.pdf)

Her references, backing up that damning judgment:

> See "Crime Against Humanity" at www.law.cornell.edu/wex/crime_against_humanity and see U.N. Office, Genocide Prevention, Crimes Against Humanity www.un.org/en/genocideprevention/crimes-against-humanity.shtml; Treaty of Rome (1957). See also Convention on the Non-Applicability of Statutory Limitations to War .

Her characterization of international documents is not only fair, but it understates the culpability of elected representatives. Actual quotes from the documents lay responsibility at the feet, not just of impersonal "government", but of government's "representatives".

Notice in the following definitions that those targeted for prosecution in international human rights tribunals include elected representatives and senators who "tolerate" crimes against humanity – who don't actively execute their authority to criminalize these assaults on the Image of God. (Genesis 1:27)

"Genocide", defined: *"Genocide means...acts...with intent to destroy...in part, a national...group [in our case, Americans] [by] killing members of the group [in our case, babies; and by] Imposing measures intended to prevent births within the group...."*

Here is the complete United Nations statement:

> Article II: In the present Convention, **genocide means** any of the following **acts committed with intent to destroy,** in whole or **in part**, **a national,** ethnical, racial or religious **group,** as such:

(a) **Killing members of the group**;

(b) Causing serious bodily or mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) **Imposing measures intended to prevent births within the group;**

(e) Forcibly transferring children of the group to another group.

- *Convention on the Prevention and Punishment of the Crime of Genocide* / Approved and proposed for signature and ratification or accession by General Assembly resolution 260 A (III) of 9 December 1948 / Entry into force: 12 January 1951, in accordance with article XII / www.un.org/en/genocideprevention/ documents/atrocity-crimes/Doc.1_Convention on the Prevention and Punishment of the Crime of Genocide.pdf

The 1948 definition above is cited in the following 1968 United Nations General Assembly resolution (which took effect two years later) which nullifies any "statute of limitations" on "crimes against humanity":

Article I: No statutory limitation shall apply to the following crimes, irrespective of the date of their commission:... (b) **Crimes against humanity** whether committed in time of war or in time of peace as they are defined in the Charter of the International Military Tribunal, Nürnberg, of 8 August 1945 and confirmed by resolutions 3 (I) of 13 February 1946 and 95 (I) of 11 December 1946 of the General Assembly of the United Nations,...the crime of **genocide** as defined in the 1948 *Convention on the Prevention and Punishment of the Crime of Genocide*, **even if such acts do not constitute a violation of the domestic law of the country in which they were committed.**

The following Article II applies the call for prosecution at any time, not limited by a Statute of Limitations, to elected representatives. The word "elected" is not there, but the context certainly includes them, especially since one cannot "represent" another, as the word is normally defined, without their voluntary authorization.

Article II: **If any of the crimes mentioned in article I is committed, the provisions of this Convention shall apply** to representatives of the State authority and private individuals who,

as principals or accomplices, participate in or who directly incite others to the commission of any of those crimes, or who conspire to commit them, irrespective of the degree of completion, and **to representatives of the State authority who tolerate their commission.** (Article II, *Convention on the Non-Applicability of Statutory Limitations to War, ADOPTED 26 November 1968 BY General Assembly resolution 2391 (XXIII)*)

> **If [genocide] is committed,**
> **the provisions of this Convention shall apply**
> **to representatives of the State authority**
> **who tolerate [its] commission.**

Thybault writes, "...the Court has not yet fully reversed Roe, Doe, and Casey." She submitted this observation to the Court which finally reversed all three, technically, although the slaughter continues in most states so her observation is still timely.

"No American citizen should have to live under, nor as history tragically demonstrates, should they stand by silently, while their government sanctions and even promotes crimes against humanity."

Another low point in the Supreme Court's grasp of 14th Amendment equal rights, she mentions, was Plessy v. Ferguson, 163 U.S. 537 (1896) which, like Roe and Dred Scott, "denied legal protection to a class of human beings" and "ignored the plain language of the Fourteenth Amendment". "Plessy accepted the gloss that 'separate but equal' was 'equal'."

She repeats, "When the government withdraws legal protection from a class of human beings, it is the classic definition of a crime against humanity."

Matthew 25:24 Then he which had received the one talent came and said, Lord, I knew [you can do anything without me] 25 And I [felt useless], and went and [buried your talent]: lo, [you can have it back]. 26 His lord answered..., Thou wicked and [lazy] servant, thou knewest that [I do good without you]: 27 Thou oughtest therefore to have [used the ability I gave you to do good for others]. ...30 And cast ye the unprofitable servant into outer darkness....

Matthew 13:44 praises the man who digs up Heaven's treasure with joy. Here He condemns a man who buries a treasure for fear, or lack of confidence/ faith that God will make good use of his efforts.

We are afraid to interact with people as needed to overcome evil and do good. Jesus promises capacity to pull down entire mountains of evil, but our faith is so weak that we don't even try, or we tell ourselves it is enough to stomp on an ant hill. We fear being mocked by God and man for failing. Solution: don't try.

Job 35:1-8 agrees that we can't personally enrich God. But Matthew 25:31-46 says when we bless others, God feels blessed; and conversely, when we ignore others' needs, God feels rejected.

Finding #6: The full humanity of a tiny physical body is hard for many to grasp. But what separates us from animals isn't physical, and has no known preconscious stage.

The Supreme Court has never disagreed with *Roe v. Wade's* definition of "person" as including "infused with a soul".[1] "Consciousness" is another word for what distinguishes us from animals, that has no physical explanation. Dictionaries list several differences.[2]

Unlike animals whose behavior is consistent within breeds, indicating a lack of meaningful conscious "choice", we can choose between widely different behaviors, from that of angels to that of demons. We can choose contrary to our own physical needs: we can sacrifice our own interests for another,[3] which is how John 15:13 defines "love". Or we can choose to destroy our bodies to serve hate.[4]

Such differences are what justifies greater legal protection of humans than of animals.[5]

Since a "soul" without consciousness has never been theorized and can't be imagined,[6] the consensus of fact finders is, in effect, that abortion kills babies with conscious souls. The lack of any physical explanation for a conscious soul rules out any basis for inferring immaturity of consciousness from physical

immaturity.

Courts require witnesses to "affirm" that they will "tell the truth, the whole truth, and nothing but the truth". America's definition of "establishment of religion" must allow Americans in every venue, including courts, to tell the whole truth – to affirm reality. Courts must stop punishing people for telling the whole truth – in any venue – just because the whole truth favors God.[7]

Courts must stop censoring a whole category of witnesses to the full humanity of unborn babies. Courts can't "reject evidence as cumulative when it goes to the very root of the matter in controversy or relates to the main issue, the decision of which turns on **the weight** of the evidence."[8] Many "jurors" in this "case" (voters and lawmakers) are persuaded by witnesses who are falsely ruled "irrelevant".

The consensus of *Roe*, of dictionaries, and of common knowledge about the differences between us and animals that have no known pre-conscious stage is consistent with the claim of Psalm 22:10 that an unborn baby could place his trust in God.

It is consistent with the report in Luke 1:44 that a baby at 6 months heard a righteous voice [and/or felt the righteous Presence of God] and responded with joy,[9] a response not everybody chooses, indicating that even the

capacity for choosing between good and evil precedes birth.

Roe v Wade was not out of line to "hold" that "those trained in... theology" who study souls, as well as doctors who study bodies, were appropriately consulted by SCOTUS to clarify who to count as human with an unalienable right to life.[10]

All this testimony indicates that when a baby is killed by dismemberment, acid, or sucking out the brain, it is not some non-sentient animal, some pre-human "potential life", but a self-aware conscious soul that feels the pain, understands the cruelty, and if out-of-body near-death experiences are real, *sees who is doing it,* along with God.

Even considering the body only, there is no objective line between birth and conception distinguishing "humans" from "nonpersons", or between "meaningful life" and life which courts are free to terminate.[11] Without such a line, there can be no stage of gestation at which killing a baby can be objectively distinguished from murder. No baby is safe while that line remains arbitrary.[12]

The failure of some people, and of some religions, to grasp the full humanity of babies at any given stage is a dangerous basis for permitting killing, since as many fail to grasp the full humanity of many groups of *born* persons.

This mountain of consensus is not

"canceled" by the fact that some religions justify abortion by claiming that "souls" do not enter babies until long after fertilization, or even long after birth.[13] Their testimony need not be censored along with dismissing them for irrelevance, but their context should not be brushed aside when that context is a pattern of dehumanization, with unequal rights and laws if not extermination, of entire classes of millions of other people.[14]

American law rejects unequal law for disfavored groups, and will appropriately ignore *rationales* for unequal rights, while consulting the religion from which equal rights entered American law.

The 1st Amendment prohibition against "establishment of religion" can't mean the Right to Life and Equal Protection of the Laws must end because they establish rights unique to the Bible while hostile to other religions.

Nor can it require censorship of truth because the truth favors God and the Bible.

There can be "free exercise" of religions which do not equally reverence all human life only to the extent their "exercise" does not threaten the rights of others or violate the laws enacted to protect them.[15] 28/808 words

1 More about "Part of Roe's definition of 'person'

was 'infused with a soul'."

"These disciplines [philosophy, theology, civil law, canon law] variously approached the question [of "when life begins"] in terms of the point at which the embryo or fetus became 'formed' or recognizably human, or in terms of when a 'person' came into being, that is, infused with a 'soul' or 'animated.'" *Roe v. Wade*, 410 US 113, 133.

☡ More about "Dictionaries list several differences (between us and animals)."

Judges look everywhere but in a dictionary to learn what Americans who ratified the 14th Amendment understood the word "person" to mean. In 1868, Webster's dictionary, published in 1828, was the only American dictionary.

> https://webstersdictionary1828.com. "Person: 1. **An individual human being consisting of body and soul.** We apply the word to living beings only, possessed of a rational nature; the body when dead is not called a person. **It is applied alike to a man, woman or child.** A person is a thinking intelligent being.
>
> "Child: 1. A son or a daughter; a male or female descendant, in the first degree; the immediate progeny of parents; applied to the human race, and chiefly to a person when young. The term is applied to infants from their birth...**To be with child** [means] **to be pregnant.** Genesis 16:11, Gen 29:36."

One of the modern dictionaries listed at freedictionary.com includes "soul" as part of a definition of "person" or of "human". It lists four other qualities unique to humans: we are conscious, we can reason, we have a sense of morality, and a "mind".

> *Collins English Dictionary, 2014.*
>
> **Person:** 1. an individual human being
>
> 5. (Philosophy) philosophy a being characterized by **consciousness, rationality, and a moral sense, and traditionally thought of as consisting of both a body and a mind or soul.**
>
> **Human:** 3. having the attributes of man as opposed to animals, divine beings, or machines: human failings.
>
> noun: a human being; person

A "person" is a "human", distinguished from animals by

"capacity for speech", "Kindness" to a degree beyond the capacity of animals, and "weaknesses, imperfections, and fragility associated with humans". This last phrase is ironic, since humans are worlds ahead of animals in their capacity! How are we more "fragile", "imperfect", or "weak"? Not in any serious physical sense; yet the ability of humans to *feel* these things, which we can't imagine any animal feeling, points to an amazing quality of Consciousness.

> *Random House Kernerman Webster's College Dictionary, 2010:* **Person:** "A living human." **Human:** Noun. 1. A member of the primate genus Homo, especially a member of the species Homo sapiens, distinguished from other apes by a large brain and the **capacity for speech.**
>
> Adjective: 2. Having or showing those **positive aspects of nature and character regarded as distinguishing humans from other animals: an act of human kindness.**
>
> 3. Subject to or indicative of **the weaknesses, imperfections, and fragility associated with humans: a mistake** that shows he's only human; human frailty.

> *Collins English Dictionary,* 2014
>
> 1. **aware of one's own existence, sensations, thoughts, surroundings,** etc.
>
> 2. **fully aware** of something: not conscious of the passage of time....
>
> 4. known to oneself; felt: conscious guilt.
>
> Conscious, aware, cognizant refer to a realization or recognition of something about oneself or one's surroundings.... to be conscious of one's own inadequacy.... implies having knowledge about some object or fact based on reasoning or information

We can "think", in a way animals can't; in this sense, "thought" means "consciousness". We are "aware".We have "free will" (Even Calvinists admit of a kind of human "choice" absent in animals). We can "give value" to an idea, meaning to prioritize – to choose.

> *American Heritage Dictionary of the English Language, 2016*
>
> Conscious: aware; **capable of thought or will**: a conscious decision; cognizant: She was conscious of the stranger standing close to her.

2. Capable of **thought, will, or perception:** the development of conscious life on the planet.

3. **Subjectively** known or felt: conscious remorse.

4. **Intentionally** conceived or done; deliberate:

b. **aware** of one's surroundings, one's own thoughts and motivations, etc

2. a. aware of and **giving value** or emphasis to a particular fact or phenomenon:

Our "soul" is "capable of moral judgment". If animals have such a capacity, they must be swimming in perpetual guilt for what they do to each other! Our "soul" is also widely believed to survive the death of our bodies.

Abused, Confused, & Misused Words by Mary Embree 2013 by Mary Embree

Soul: a. **A part of humans regarded as immaterial, immortal, separable from the body at death, capable of moral judgment, and susceptible to happiness or misery in a future state.**

b. This part of a human when disembodied after death.

American Heritage Dictionary 2016

Soul: 1. (Theology) the spirit or **immaterial part** of man, the seat of human **personality, intellect, will, and emotions, regarded as an entity that survives the body after death.**

2. (Theology) Christianity the spiritual part of a person, capable of redemption from the power of sin through divine grace

Collins English Dictionary 2014

1. the principle of life, feeling, thought, and action in humans, regarded as a distinct entity separate from the body; **the spiritual part** of humans as distinct from the physical.

2. the spiritual part of humans regarded **in its moral aspect**, or as believed to survive death and be subject to happiness or misery in a life to come.

3. the disembodied spirit of a deceased person.

Collins Thesaurus of the English Language – Complete and Unabridged 2nd Edition. 2002

Soul: 1. The vital principle or animating force within living beings: breath, divine spark, élan vital, life force, psyche, spirit,

vital force, vitality.

2. The essential being of a person, regarded as immaterial and immortal: spirit.

3. A member of the human race: being, body, creature, homo, human, human being, individual, life, man, mortal, party, person, personage.

4. The most central and material part:

☙ More about **"Love, as defined by John 15:13,** [means] **to sacrifice one's interests for another."**

John 15:13 Greater love hath no man than this, that a man lay down his life for his friends.

☙ More about **"we can choose to destroy our bodies to serve hate"**

Our Capacity to destroy our own bodies – to choose against our own physical needs, proves the part of us which is ultimately in control is not our physical bodies. Our "wills", or "minds", or "souls", behave as if they came from another dimension than the physical, and treat our bodies as their tool, not their master.

This is true whether our anti-body choices are motivated by hate as in the terrorist facing the "glory" of facing a hail of bullets, or by shame as in the Judas who sees his crime and can't bear the shame, by lack of understanding of the meaning of life as in the wealthy pop idol who drowns himself in drugs to deaden his imagined meaninglessness, or the love of the Christian martyr who shares love and meaning with enemies of love and meaning known to torture anyone who talks about it.

Suicide verses:

2 Samuel 17:23 And when Ahithophel saw that his counsel was not followed, he saddled his ass, and arose, and gat him home to his house, to his city, and put his household in order, and hanged himself, and died, and was buried in the sepulchre of his father.

Matthew 27:5 And he cast down the pieces of silver in the temple, and departed, and went and hanged himself.

A famous "choice" verse:

Joshua 24:15 And if it seem evil unto you to serve the LORD, **choose** you this day whom ye will serve; whether the gods which your

fathers served that were on the other side of the flood, or the gods of the Amorites, in whose land ye dwell: but as for me and my house, we will serve the LORD.

5 More about **"...greater legal protection of humans than of animals..."**

Although most of our laws protect humans more than animals, among irrational exceptions is the penalty for taking a single eagle egg compared with the penalty for an abortionist who has murdered 60,000 babies over his career, as late term abortionist George Tiller had claimed on his website before he was shot to death by Scott Roeder, who is now serving a 25 year prison sentence for it.

Though two consecutive Attorney Generals tried to prosecute him, courts threw it out. But the clear penalty for taking an eagle egg: "A violation of the Act can result in a fine of $100,000 ($200,000 for organizations), imprisonment for one year, or both, for a first offense. Penalties increase substantially for additional offenses, and a second violation of this Act is a felony." https://www.fws.gov/law/bald-and-golden-eagle-protection-act

6 More about **"a 'soul' without consciousness has never been theorized and can't be imagined"**

I can't decide whether to acknowledge, as an exception to this statement, this statement in Wikipedia's article on "Ensoulment": "Aristotle's epigenetic view of successive life principles ('souls') in a developing human embryo—first a vegetative and then a sensitive or animal soul, and finally an intellective or human soul, with the higher levels able to carry out the functions also of the lower levels—was the prevailing view among early Christians, including Tertullian, Augustine, and Jerome." The statement is followed by two notes saying "need quotation to verify", and two more saying "failed verification". But at least whoever posted the claim in Wikipedia theorized it, although I am skeptical whether anyone can actually imagine a pre-conscious soul.

Subsequently the article alleges that the Greek version of the Old Testament – the Septuigint, which was relied on by early Christians, clearly translates Exodus 21:21-22 as if causing death of an unborn baby triggers only a fine – not execution of the offender. So

"the LXX could easily have been used to distinguish human from non-human fœtuses and homicidal from non-homicidal abortions, yet the early Christians, until the time of Augustine in the fifth century, did not do so."

Wikipedia's article on Aristotle doesn't mention the claim about pre-conscious souls.

7 More about "Courts must stop punishing people for telling the...truth...just because the...truth favors God.

A 1963 book, *Author of Liberty* by Carl McIntire, explains the connection between censoring God, in our public forums where voters decide to fashion our laws after the principles of Heaven or of Hell, and a culture of lies, deceit, and fraud:

> ...moral degeneration...can be seen very clearly when we have a world that no longer seeks the truth. Lying, backbiting, slander, talebearing, and in short, all manner of violations of this Ninth Commandment ["Thou shalt not bear false witness"] abound on every hand. Hence, there is no peace or security. When men fear God, they will tell the truth. It is God who judges; it is God who sees and knows every lie and every thought. The fear of God will keep men clear, pure and true. The fear of God will enable them to love the truth. When the State [or the Supreme Court] sets itself up as God and no longer fears Him, manufacturing its own tales, creating its own "truth", it rules out this commandment altogether. This is precisely what Russian censorship means today. [Update: Communist Chinese, North Korean, Facebook, and Biden administration-coordinated censorship.]
>
> When a man does not tell the truth, he is afraid to hear the truth told to another. When a man lives in a world of untruth, which he creates, he wants all others to be subject to the same limitations and deceptions. The communistic state controls "truth" as it controls the individual and "his" property. It does not think that truth can stand alone, it must be socialized, too! It therefore enslaves "truth", and there is no longer any such thing.
>
> When the State occupies such a position, degeneration is felt in every individual! Lying abounds, and for this reason the

State has to use its iron hand to force individuals to tell the truth, under the fear of the most horrible kinds of penalty, so that even the State can be reasonably sure to tell its falsehood. The Ten Commandments are meaningless, and religion, therefore, is the "opiate of the people"! Marx was right if we accept his premise and system as true.

How different this is from the free ordered world in which men fear God and tell the truth because they love God! The fear of the State will not lead men to be truthful, because the State cannot know, as God knows, when lies are being told. The fear of the total State is an abomination; the fear of the Living God – and every man should know this – is the beginning of wisdom.

Natan Sharansky explains so even a spoiled American can understand, the utter emptiness, the "life" without Life, of not being allowed to say what you know, and knowing no one around you can either. Being tortured is an improvement.

See his EpochTV.com interview at www.theepochtimes.com/epochtv/natan-sharansky-on-todays-evil-empires-the-war-in-ukraine-soviet-communism-and-the-new-antisemitism-5103919

8 More about **"Courts can't "reject evidence as cumulative when...the decision...turns on the weight of the evidence."**

"When Does the Number of Experts Used By One Side Become Cumulative?" by Christine Funk, May 25, 2020 (www.expertinstitute.com/resources /insights/when-does-the-number-of-experts-used-by-one-side-become-cumulative/)

Excerpts: [In *Shallow v. Follwell*,] (https://law.justia.com/cases/missouri/supreme-court/2018/sc96901.html) Plaintiffs argued that the testimony of the four experts was cumulative, as the testimony of each expert overlapped that of some or all of the other testifying experts. ...

Evidence is relevant "if it tends to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." However, courts must still engage in a balancing test to determine whether the relevant evidence poses the risk of unfair prejudice, cumulativeness, confusion of the issues, misleading the jury, or is an undue delay or waste of time. Where the cost of admitting otherwise relevant evidence "substantially outweighs" the benefits, the evidence should be

excluded.

...[Evidence is "cumulative"] when evidence "relates to a matter so fully and properly proved by other testimony as to take it out of the area of serious dispute." [But courts can't] "to reject evidence as cumulative when it goes to the very root of the matter in controversy or relates to the main issue, the decision of which turns on the weight of the evidence."

...An excessive number of expert witnesses can create the risk that the trier of fact will simply resolve inconsistencies in expert opinions by merely counting the number of witnesses each side calls, rather than providing due consideration to the credibility and quality of each expert's opinion. While not the only measure, one measure of prejudicial testimony is where the testimony tends to "lead the jury to decide the case on some basis other than the established propositions of the case."

federal rule, which states:

> The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.

Because what is and what is not considered cumulative is, by and large, a [subjective] judgment call, attorneys and experts would be wise to delineate their differences for the court prior to the beginning of testimony.

9 More about **"a baby at 6 months...felt the... Presence of God and responded with joy...indicating that even the capacity for choosing between good and evil precedes birth."**

John the Baptist leaped for joy at six months – 26 weeks. Today through ultrasound we can see "at twenty weeks" that " "facial expressions begin to appear consistently, including 'negative emotions.'" See Alessandra Pionetelli, *Development of Normal Fetal Movements: The First 25 Weeks of Gestation* p. 80 (2010).(Amicus Brief of American College of Pediatricians filed in Iowa's heartbeat law case, https://www.iowacourts.gov/courtcases/18325/briefs/5788/embedBrief

Luke's report tells us more than just the capacity of a baby to feel happy or sad. He tells us what made little John happy. Too many people today "delight in lies", Psalm 62:4, "delight in war", Psalm 68:30, and "rejoice to do evil, and delight in the frowardness [twisted deceit] of the wicked" Proverbs 2:14. The Psalmist made a different choice: "thy law is my delight" Psalm 119:77.

That's the choice little John made. Good, over evil.

Luke 1:39 And Mary arose in those days, and went into the hill country with haste, into a city of Juda; 40 And entered into the house of Zacharias, and saluted Elisabeth. 41 And it came to pass, that, when Elisabeth heard the salutation of Mary, the babe leaped in her womb; and Elisabeth was filled with the Holy Ghost: 42 And she spake out with a loud voice, and said, Blessed art thou among women, and blessed is the fruit of thy womb. 43 And whence is this to me, that the mother of my Lord should come to me? 44 For, lo, as soon as the voice of thy salutation sounded in mine ears, the babe leaped in my womb for joy.

Roe v. Wade "opened the door" to a Bible study of abortion as part of our national debate, by claiming that the reason "We need not resolve the difficult question of when life begins" is because "the judiciary, at this point in the development of man's knowledge, is not in a position to speculate as to the answer" since, after all, doctors and preachers can't agree: "those trained in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus".

It's not just that *Roe* "opened the door", which is the name for a technical legal principle that lawyers use in court to get around a judge's "in limine" order to not say certain words or offer certain evidence. This is no "loophole" around the 1st Amendment prohibition of establishing a religion.

Roe couldn't legalize abortion without neutralizing somehow public concern that babies of humans might turn out to be humans. Justice Blackmun understood there are two sources of authority on that issue: medicine, which documents that unborn babies have physical human bodies, and theology, which documents that unborn babies have souls made in the Image of God. That is why *Roe* devoted many pages of selective evidence and tortured logic to justify its conclusion that doctors and preachers can't agree, so how can mere Supreme Court Justices know? (For their exact words, see Finding #1, Footnote #3.)

The most recent Christian that they consulted was Thomas

Aquinas who died in 1274 AD! Most important, they didn't consult God! One citation to one Bible verse is in one footnote, neutralized by not an analysis but an insinuation. So to patch up SCOTUS' confusion about whether God can agree with Himself, you can find my prolife Bible study in Appendix E of my book, http://www.saltshaker.us/HowStatesCanOutlawAbortion.pdf (in a Way that Survives Courts). Another great Bible study by the Jewish Prolife Foundation, from their Amicus Brief submitted in *Dobbs V. Jackson,* closes this footnote.

What was Blackmun thinking, to paint doctors and preachers as greater authorities than himself on the dispositive fact question in abortion policy, and then to torture historical facts to FANTACIZE serious disagreement? What *Roe* was correct about, and that many prolifers today are incorrect about, is that leaving out the Biblical evidence really does leave prolifers with an unnecessarily weak argument. Let's admit it, it really is hard to grasp the full humanity of a single fertilized egg. I didn't come by the conviction automatically or naturally; I had to study and believe Scripture until my incredulity over protecting such a tiny little thing melted away. I AM FAR FROM ALONE.

But the "personhood focus" of the Scripture is not on the physical, but on the soul. So why will Bible believers give the public every other reason for saving unborn lives than the one that was strong enough to persuade them?

50 years, and mass murder of babies is still fully legal in almost every state! So much evil runs free, after God is censored and then forgotten! This really is about more than "just" infanticide. It's about every other political issue about which God's views are clear. And it's not "just" about the future and survival of our nation. It's about Heaven and Hell for eternity. Not just for others, either.

See Footnote #4 of Statement #11 for a discussion of the constitutionality of quoting Bible verses in a bill of a state legislature.

Here is the Bible study submitted in an Amicus Brief in Dobbs v. Jackson by the Jewish Prolife Foundation. It is one of the few, of the 140 briefs filed in that case, that argues not only for the repeal of *Roe* but for the end of legal abortion in every state. Justice Kavanaugh, in *Dobbs,* complained about one of the *Amici* which argued for that result. He called that goal "wrong". Here is the study:

> .... Jeremiah 22:3 admonishes us to avoid causing pain and death to the powerless: "Do what is right and just; rescue the

wronged from their oppressors; do nothing wrong or violent to the stranger, orphan or widow; don't shed innocent blood in this place."

Amici implore the Court to study our arguments in this filing and thereby find the moral authority and conviction to overturn Roe, Doe and Casey. **Indeed, to apply the protective elements of the 14th Amendment of the Constitution to all children.**

Judaism Is The Original Pro-Life Religion. It Was The First Religion In Human History To Sanctify Human Life From Conception To Natural Death And To Prohibit Child Sacrifice.

Judaism has a strong legal tradition of protecting human life and prohibiting the murder of innocents. Jewish law and tradition emphasize and support the moral right to life for all human beings at every stage of development based on the understanding that all people are created in the image of God; therefore, each of us has intrinsic value and worth with a destiny to fulfill God's vision for humanity on Earth.

Psalm 139:13-16 reveals this: 'For you created my inmost being: you knit me together in my mother's womb. I praise you because I am fearfully and wonderfully made . . .My frame was not hidden from you when I was made in the secret place. When I was woven together in the depths of the earth, your eyes saw my unformed body. All the days ordained for me were written in your book before one of them came to me.'

…. All of us who are able to do so have the duty to enforce this right of the child in the womb: Leviticus 19:16: 'Do not stand idly by when your neighbor's life is at stake.'

…. The Almighty gives clear instructions on the life issue in Deuteronomy 30:19: 'This day I call the heavens and the earth as witnesses against you that I have set before you life and death, blessings and curses. Now choose life, so that you and your children may live.'

…. Maimonides declared in his compilation of Jewish law, the Mishneh Torah: 'The definition of murder according to the Noahide Laws includes a person "who kills even one unborn in the womb of its mother," and adds that such a person is liable for the death penalty.'"

The Talmud (Sanhedrin 57b) says that an unborn child is included in the Noahide prohibition of bloodshed that is learned

from Genesis 9:6-7: (from a direct translation of the original text), 'He who spills the blood of man within man shall have his blood spilt for in the image of God made He man. And you, be fruitful, and multiply; swarm in the earth, and multiply therein.' The Talmud interprets 'the blood of man in man' to include a fetus, which is the blood of man in man.

…. Clearly, the Jewish religion prohibits child sacrifice, the modern day version being abortion, as stated in the Torah: Leviticus 18:21: 'Do not give any of your children to be sacrificed to Molek, for you must not profane the name of your God. I am the Lord.' Psalm 106:35-38: 'They mingled with the nations and adopted their customs. They worshiped their idols, which became a snare to them. They sacrificed their sons and their daughters to false gods. They shed innocent blood, the blood of their sons and daughters, whom they sacrificed to the idols of Canaan, and the land was desecrated by their blood.'

Rabbinical opinion prohibits even helping non-Jews abort – even for "physical abnormalities".

Rabbi Chananya Weissman: "It should not need to be debated that unborn children have the right to be born, and the lives of the elderly and infirm are no less precious than the lives of society's most fortunate. The rich and powerful do not have the right to decide the value of anyone's life, nor when someone has 'already lived their life' and it's time for them to go. That is strictly the purview of God, who forbids us to make such distinctions or calculations, even for the alleged 'greater good.' It is always for the greater evil. It is always to displace God. The Torah teaches that every life is a unique world, and every moment of every life is infused with the potential to achieve great spiritual heights."

Rabbi Pinchas Teitz: (Commenting on Deuteronomy 21:7): "Shedding innocent blood in Jewish life is so reprehensible that at times even those not responsible for the act of murder who hear of such an incident must dissociate themselves from it. This is expressed by the recitation of the elders of the city in whose proximity a dead man is found. In the eglo arufo ceremony that the Torah mandates, they must wash their hands, saying: 'Our hands did not shed this blood,' even though there is no reason to assume that they were directly involved in the death. How, then, are we to respond with less than shock to the killing of 100,000

fetuses through abortion in Israel, year after year? This is certainly a sin against Torah . . . It is a crime against Jewry, against mankind, and even against the Land itself—for the Torah clearly warns that the Land, in its sensitivity to corruption, can tolerate no bloodshed."

The Jewish Prolife Foundation brief says that in Jewish law, the only time abortion is permitted is to save the life of the mother. The brief doesn't give a reference from the Bible, but a footnote explains, "One who is 'pursuing' another to murder him or her. According to Jewish law, such a person must be killed by any bystander after being warned to stop and refusing." This describes a kind of self defense or defense of others. Scriptures I think of that illustrate this principle are: 2 Samuel 2:18-23, where Abner begged Asahel not to attack him, but Asahel refused so Abner killed him. Or Exodus 22:2 which excuses a homeowner for killing a thief who breaks in at night.

I particularly appreciate the brief's analysis of Exodus 21:22-25, the ONLY citation of the Bible included in Roe v. Wade, in a footnote. The brief says: "A note about Exodus 21:22-25, the mistranslation of which has led many to conclude that Judaism condones the mass slaughter of infant life."

Unfortunately the brief doesn't quote the passage so we can see what translation is relied on. Here is the Jubilee version, followed by the Literal Translation of the Holy Bible (LITV):

> Exodus 21:22 If men strive and hurt a woman with child so that she aborts but without death, he shall be surely punished according as the woman's husband will lay upon him, and he shall pay by the judges. 23 And if there is death, then thou shalt pay life for life, 24 eye for eye, tooth for tooth, hand for hand, foot for foot, 25 burning for burning, wound for wound, stripe for stripe. (Jubilee)
>
> Exodus 21:22 And when men fight, and they strike a pregnant woman, and her child goes forth, and there is no injury, being fined he shall be fined. As much as the husband of the woman shall put on him, even he shall give through the judges. 23 But if injury occurs, you shall give life for life, 24 eye for eye, tooth for tooth, hand for hand, foot for foot, 25 branding for branding, wound for wound, stripe for stripe. (LITV)

The Jewish Prolife Foundation brief continues:

"This conclusion [that Judaism condones the mass slaughter of infant life] is entirely false. The verse describes a case in which fighting men in close proximity to a pregnant woman *inadvertently* cause a miscarriage. The Torah [allegedly] specifies that the guilty party would be prosecuted for *involuntary* [accidental] manslaughter only if the pregnant woman herself dies. If the infant in the womb dies, they must pay only a monetary fine.

"Long used by abortion advocates to reframe abortion as legal in Judaism, this text is *not* a license to [deliberately] abort infant life; rather, it is a reference to *involuntary* manslaughter requiring an adjudicated fine. It is not a capital crime.

Actually I am confused because the brief just said if the baby dies the man who caused it is not executed but pays a fine; but next the brief quotes "Jewish Pro-Life Foundation board member, Rabbi Shlomo Nachman" as proving that "if other damage ensues, i.e. the baby is born with some deformity or born dead, then the standard penalties will apply, 'an eye for eye, tooth for tooth'. If the child dies as a result, the men are guilty of the murder, a life for a life. The text makes no sense any other way."'

"...This verse must be carefully understood. Many translations read 'and a miscarriage occurs' rather than as 'a premature birth results' as I have it here. The passage, in my opinion, is to 'a premature birth' when the context is considered. The text actually says that if the child 'departs' ["yasa"] the womb and no other damage ensues from the event. In other words, if because of the struggle the baby is born early but is otherwise fine, then the men may be required to pay damages for their carelessness but no more. 'But if other damage ensues,' i.e. the baby is born with some deformity or born dead, then the standard penalties will apply, 'an eye for eye, tooth for tooth'. If the child dies as a result, the men are guilty of the murder, a life for a life. The text makes no sense any other way. The Hebrew term shachol references an abortion or miscarriage. That word is not used here. There is conclusive evidence that both Torah and Rabbinic halacha regarding the pre-birth child as fully human and subject to the same protections and respect as all other people."

(I will further note that the penalty is to be decided by a

jury. I take this as so the jury can take into account eyewitness testimony about how deliberately the woman was struck. Did a man deliberately aim his fist at her? Did she insert herself into the dispute so much as to make her injury unavoidable?)

More Scripture: "Our tradition teaches us to advocate for vulnerable and victimized targets of abuse and murder. Proverbs 31:8 demands, 'Speak up for those who cannot speak for themselves.' We acknowledge the harms done by abortion and speak out to prevent them."

"It is now confirmed that men grieve lost fatherhood, resulting in broken relationships and dysfunctional family life. We heed Jeremiah 29:6, emphasizing the importance of the family even in difficult times: 'Marry and have sons and daughters; find wives for your sons and give your daughters in marriage, so that they too may have sons and daughters. Increase in number there; do not decrease.'"

"Judaism's biblical tradition identifies the child in the womb as precious, valuable and unique. Isaiah 49:1: 'Before I was born the Lord called me; from my mother's womb he has spoken my name.' And Jeremiah 1:5: 'Before I formed you in the womb I knew you, before you were born I set you apart, I appointed you as a prophet of nations.'"

Evidence of the regard for unborn human life in Jewish law: "when human life is endangered, a Jew is required to violate any Sabbath law that stands in the way of saving that person. The concept of life being in danger is interpreted broadly; for example, it is mandated that one violate the Sabbath to take a woman in active labor to a hospital. Jewish law also not merely permits, but demands, that the Sabbath be violated in order to save infant life in the womb. As lifesaving activity is the only situation in which a Sabbath violation is permitted, were the infant child not deemed alive by the Torah, this behavior would be entirely prohibited."

"Abortion industry practices dramatically contrast with Jewish ethics and moral guidelines in business, cleanliness, sexual propriety, responsibility to protect friends and neighbors from harm, honesty, and women's safety.

"Exodus 23:7 admonishes us: 'Keep away from fraud, and do not cause the death of the innocent and righteous; for I will

not justify the wicked.'

"Abortion providers have long been exempted from standard medical practices and regulatory oversight. They perpetuate sex crimes by routinely failing to report evidence of sexual assault and sex trafficking. They fail to provide informed consent to patients and fail to counsel patients on alternatives to the abortion procedure or possible immediate and long-term negative consequences of the procedure."

…. "Judaism prohibits desecrating the human body, but abortion destroys a human body, and the harvesting of baby parts for profit defies Jewish respect for the dead."

"Today, the Justices have all the information needed to fully understand and acknowledge the status of the infant life, and have done so in Gonzales, at 159, 160. From conception onward, children in their mother's womb manifest humanity to such an extent that only a decision that protects their lives and futures is humane and just."

The conclusion is the most magnificent I have read, which it would not have been without quoting God: "We must end abortion, an appalling crime against humanity. To begin the process of reconciliation with our Creator, to restore the dignity of those who have perished, and to return our country to a life affirming nation. Amici ask the Court to rise above political concerns and to contemplate the Divine promise bestowed upon every human being as pledged in Jeremiah 29:11: 'For I know the plans I have for you, declares the LORD, plans to prosper you and not to harm you, plans to give you hope and a future.'"

"But abortionists quote Scripture to support murder, too!" Christians moan, as if terrified that any Scripture they quote in public will just be "canceled" by the verses quoted from the other side.

Of all the things to worry about, take that off your list! The Dark Side isn't that good with Scripture. Be inspired by this Jewish amicus brief, which took the opportunity of a case before the Supreme Court to disprove the rather common myth that "the Jewish religion approves of abortion". It appealed less to Jewish theologians than to the Scripture without which Jewish theologians would have no basis for their existence. Similarly, several denominations self-identifying as "Christian" publicly extol baby killing! But let the Scriptures they quote, if any, guide the public discussion.

It's a *good* thing to get public discussion going about the correct meaning of the Bible! God's Word is able to speak for itself, to hearts who want the truth. Stop censoring God out of concern for God's reputation if His Word is made known!

> Kristan, Students for Life, October 23, 2023: It's no secret that the devil and his followers LOVE abortion. Last year, New Mexico Gov. Michelle Lujan-Grisham's 'Abortion Hotline' was caught using TAXPAYER DOLLARS to refer women to the Satanic Temple for abortions.
>
> In 2022, California Gov. Gavin Newsom promoted his state's extreme abortion policies on Texas billboards using SCRIPTURE to make it appear that abortion can coincide with Christian theology.
>
> Now, even more pro-abortion billboards have begun popping up along I-55 from Louisiana to Illinois saying, 'God's Plan Includes Abortion.'
>
> When I saw this, it reminded me of Matthew 4:6, where the devil tries, and fails, to use Scripture to tempt Jesus to sin. Satan's tactics haven't changed.

Kristan should have cited Newsom's verse. It sounds more intimidating before you hear what it was. It was "Love your neighbor as yourself; there is no greater commandment than these." Mark 12:31.

That's supposed to persuade Christians to murder their babies? Out of "love" for them? Can an application of a verse this far from making sense be "refuted" any more thoroughly than it refutes itself?

The bottom billboard was funded by Gavin Newsom's campaign. The top billboard was funded by a Texas church in response. How is it that a pagan uses Scripture but a church, in response, doesn't?

10 More about **"Roe v Wade was not out of line to 'hold' that 'those...' who study souls...were appropriately consulted by SCOTUS..."**

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

11 More about **"... there is no objective line between birth and conception distinguishing ... between 'meaningful life' and life which courts are free to terminate"**

"In Roe, this Court determined that the state's interest in the

protection of human life became compelling at viability, relying on the fetus' 'capability of meaningful life outside the mother's womb.' Id. at 163. By contrast, in *Cruzan* this Court rejected the idea of 'meaningful life,' holding that 'a State may properly decline to make judgments about the 'quality' of life that a particular individual may enjoy, and simply assert an unqualified interest in the preservation of human life to be weighed against the constitutionally protected interests of the individual.' Cruzan, 497 U.S. at 282; *Washington v. Glucksberg*, 521 U.S. 702, 729 (1997) (quoting *Cruzan* and holding that the state 'has an unqualified interest in the preservation of human life') (emphasis added). See also *Britell v. United States*, 372 F.3d 1370, 1383 (Fed. Cir. 2004) ('It is not the role of the courts to draw lines as to which fetal abnormalities or birth defects are so severe as to negate the state's otherwise legitimate interest in the fetus' potential life.'); *State v. Final Exit Network, Inc.,* 889 N.W.2d 296, 305-06 (Minn. Ct. App. 2016) ('The state has a compelling interest in the preservation of D.D.'s life, and the prevention of her suicide, regardless of her incurable [non-viable] condition.')"

This excerpt is from the amicus brief in Dobbs submitted by Dr. Robin Pierucci, M.D. [http://www.supremecourt.gov/DocketPDF/19/19-1392/148122/20200720132309321_19-1392%20Dobbs%20v.%20JWHO%20petition%20AC%20LLDF.pdf]

12 More about **"...there can be no stage of gestation at which killing a baby can be objectively distinguished from murder. No baby is safe while that line remains arbitrary."**

I first heard the idea of "post-natal abortion" in 1997. I posted the website urging it and my analysis, at www.saltshaker.us/AmericanIssues/Life/Joke.htm. My headline: "Is post-natal abortion funny?" I couldn't tell if its promoters were serious or were prolifers making a point. They were serious. Here are their FAQ's 26 years ago:

> www.geocities.com/CapitolHill/Lobby/4432/page1.html, (no longer online and not archived at archive.org) actually offers "Join us! E-mail to Free Melissa! and protect a woman's right to choose!"

Melissa Drexler was the young woman who delivered a baby 6/24/96 in the bathroom during a prom and returned to the prom as if

Nature's Call had been just a routine call.

Click on "What can I do?" and you will be advised, "make sure that you are living consistently! Use your reproductive freedom or lose it! Sex without consequences, easily available abortion and condoned infanticide are your rights as an American citizen!"

"page2.html" offers answers to "The Most Commonly Asked Questions about Post-Natal Abortion".

"What is Post-Natal Abortion?

"Post-Natal Abortion is a technique which has been used for thousands of years by women who desired to excercise [sic] their reproductive rights. In fact, studies have shown that it is the safest and also the most effective means of terminating a pregnancy that has ever been devised.

"But is it Safe?

"As was mentioned, post-natal abortion is believed to be the safest method of terminating a pregnancy currently available. While all abortion procedures involve some risk to the woman, there has never been a reported death due to post-natal abortion.

"How Effective is it?

"There is a certain amount of risk involved in most late-term abortion procedures. With methods such as a Saline abortion (where saline fluid is injected into the womb, burning the fetus and causing a spontaneous abortion), a live birth may occur. However, post-natal abortion is particularly suited to avoid this complication. Because the abortion actually occurs outside of the womb and at the discretion of the woman, she is in complete control over the 'product of conception' and may perform the abortion technique at her convenience. And unlike other techniques, if there are complications, the woman may simply apply the procedure again to obtain the desired results.

"Is a medical license necessary to perform this procedure?

"No. No medical training is necessary. This method of abortion is so simple, safe and effective that anyone may perform it. Thus a woman may avoid the stigma of entering a clinic where 'protesters' are attempting to hamper her in the exercise of her reproductive freedom.

"When may it be applied?

"Post-natal abortion should be used only in the time between

when the fetus leaves the birth canal and when it reaches 'viability.'

"When does viability occur?

"This is an area of great debate. Until science resolves this, viability will continue to be a fuzzy area. For now, we offer a sinple test -- If the fetus is not able to survive on its own (including preparation and consumption of food, the ability to make a living, and cleaning up its own living space) it is not viable and therefore not a legally defined 'person.' In these cases, post-natal abortion is a perfectly moral choice.

"How does it work?

"The term 'post-natal abortion' actually covers many different procedures. One of the most common is the Manual Respiratory Manipulation method. In this procedure the mother stops the flow of air to the lungs of the fetus by digitally manipulating the throat of the fetus. This usually [sic] produces a post-natal abortion within minutes. This is the method which Melissa Drexler used. Other procedures included in 'post-natal abortion' include:

"Fetal Aqua Submersion

"Fetal Cranial Interruption and

"Fetal Roadside Abandonment."

There are links to over a dozen news articles about Drexler, offered without comment. I downloaded one that looked the most straightforward, and concluded any proponent of Post Natal Abortion could easily pass on this article without the need of comment.

It was published in the Asbury Park Press 6/25/97, titled "Death at the prom" By James W. Prado Roberts, Staff Writer.

Today there are many search returns for "After birth abortion". Wikipedia's article says the book "After-birth abortion: why should the baby live?" "attracted media attention and several scholarly critiques."

The movement is serious.

Michael Tooley, *"In Defense of Abortion and Infanticide," in* <u>*The Ethics of Abortion,*</u> *(New York: Prometheus Books, 2001),* admits that "even newborn humans do not have the capacities in question....it would seem that infanticide during a time interval shortly after birth must be viewed as morally acceptable."

The narrow definitions of "personhood" that they invent, in order to deny it to babies, end up excluding most of mankind.

Tyrants measure the human worth of others by their "value" to themselves. The Bible, alone, identifies children, women, babies, immigrants, prisoners, pagans – everyone, as equally valuable to God, which puts their oppressors in God's crosshairs.

So what if "Blue State" voters continue their journey away from God far enough to legalize "After Birth Abortion"? Will 10-year-olds be safe? Not according to the logic in the preceding 1997 article. Babies and older children, and even adults, have been sacrificed to "gods" for thousands of years.

"Apocalypto" is a 2006 movie by Mel Gibson about the human sacrifice of the Maya that continued until the Spanish came. Wikipedia's review (https://en.wikipedia.org/wiki/Apocalypto) reports that "The ending of the film was meant to depict the first contact between the Spaniards and Mayas that took place in 1511 when Pedro de Alvarado arrived on the coast of the Yucatán and Guatemala, and also during the fourth voyage of Christopher Columbus in 1502.

"Mayanist David Stuart stated that human sacrifice was not rare and based on carvings and mural paintings, there are 'more and greater similarities between the Aztecs and Mayas.' " And "Archaeological sites indicate that the Mayans used several methods for sacrifice such as 'decapitation, heart excision, dismemberment, hanging, disembowelment, skin flaying, skull splitting and burning.' "

But "Guernsey points out that the film is seen through the lens of Western morality and states that it is important to examine 'alternative world views that might not match our own 21st century Western ones but are nonetheless valid.' "

"Western morality". In other words, relatively Biblical morality. The "world views" of demons "are nonetheless valid."

A modern example of child sacrifice is in Iran. "During the Iran-Iraq War from 1980 to 1988, Iran used boys as young as 9 in human wave attacks and to clear minefields. These children were sent into battle without weapons but with 'keys to paradise' hung around their necks. They were often bound together by ropes in groups of 20 to prevent desertions." (www.foxnews.com/world/iran-using-child-soldiers-attempt-stop-protests-biden-administration-urged-sanction-regime-report) This October 25, 2022 article was about Iran still using child "soldiers" to "stop protests" against the government.

King Ahaz, of Jerusalem, sacrifices a baby
Not clearly shown: the fires making the idol's hands red hot.
Shown: musicians drowning out the baby's screams.

13 More about **"Some religions justify abortion by claiming that "souls" do not enter babies until long after fertilization..."**

Islam

> "Verily, the creation of one of you is brought together in the mother's womb for forty days in the form of a drop (nutfah), then he becomes a clot ('alaqah) for a like period, then a lump for a like period, then there is sent an angel who blows the soul into him." — Hadith #4, Imam al-Nawawī's Forty Hadith, Ibn Hajar al-Haytamī, al-Fath al-mubīn bi sharh al-arba'īn

Based on this Hadith, "The Hanafi madhab places the point of ensoulment at 120 days after conception" according to Wikipedia's article on "Ensoulment". Surahs of the Koran are quoted that do not give the time of ensoulment (when a soul enters a baby). 15:31 says "do not kill your children...." 8:151 says "do not kill the soul which God has forbidden...."

Roe v. Wade correctly ignored Islam as a trusted source of information about souls and babies. The preceding Hadith is stone-age

superstitious on its face, and Islam is the last religion to admire for its equal rights for all humans.

Hinduism. The following paragraph, from Wikipedia's article on "Ensoulment", summarizes Hinduism's view of when babies get souls – a claim lawmakers and courts will do well to ignore:

> ...many scriptural references [from Hinduism] such as the Charaka Samhita, Ayurveda's most authoritative treatise on perfect health and longevity, states the soul doesn't become attached to the body until the 7th month "the occupant doesn't move into the house until the house is finished", certainly not in the first trimester. The physical body is a biological growth undergoing *constant reflexive testing* and *trial runs* as it grows into a physiology capable of housing human consciousness.

14 More about **"...a pattern of...unequal rights...of entire classes of...people"**

What other religion than those influenced by the Bible vigorously calls for equal rights for all people? Doesn't every other religion dehumanize entire people groups, reserving fewer legal rights for them than for "better" groups?

> "In any war between the civilized man and the savage, support the civilized man." – Pamela Geller's ad on the sides of New York buses

Does it seem ironic that civilization as we understand the concept today includes equal *legal* rights for all *people*, but that cannot exist where there is equal *respect* for all *religions?* When religions and philosophies hostile to our Freedoms are given equal influence in Congress and in courts with the religion of Freedom's Founders, how can Freedom survive?

We are intimidated by our First Amendment prohibition against "establishing" a religion. We think that means we are prohibited from establishing the truth. We think that means we have to believe the truth and lies equally. We must equally respect reality and superstition.

I can "identify as a girl", which makes me a girl, and the hospital will cut off whatever is appropriate for that designation; although when I made myself a badge saying "I identify as wearing a mask", they still made me leave the hospital.

Are equal rights for all better than fewer rights for unimportant people? Is freedom better than slavery? Are elected leaders better than dictators? Is free speech better than torturing critics?

If "yes", then without being accused of "establishing a religion", may we publicly identify that religion which vigorously supports equal rights, freedom of religion and speech, and elections, and publicly contrast that with religions which pile legal burdens on inferior classes, support slavery, glorify tyranny, and torture critics?

Are we allowed to publicly observe reality, even if we are lawmakers or judges deciding who to count as "people" to be protected from being murdered?

"No! Not in public", you scream! "That would be too distressing, because that would 'establish religion'! America is not a theocracy!"

You even quote scripture to prove you should never allow distressing talk like that, because talk like that puts you in danger of changing your mind! Here is the verse:

> "...do not ask about things which, if they are shown to you, will distress [challenge] you….A people asked such questions before you; [In the past, when people did that,] then they became thereby disbelievers."

You didn't know that was in Scripture, did you? But it is. Look it up for yourself: Surah 5:101-102. The Koran is not big on Freedom of Speech.

If you are not already bouncing off the walls in frustration with me, just wait till you get to the end of this footnote! Because it gives a few quotes from the two most popular alternative religions to the Bible, which show their hostility towards "equal protection of the laws", such that courts and Congress *must not consult them* as reliable guides to reality.

I am not belaboring the pagan-ness of Hinduism with the slightest feeling of disrespect for the people who believe it. Especially if you are a Hindu, as is 2023 presidential candidate Vivek Ramaswamy, who chooses to live in America whose laws are far more influenced by the Bible than by the Gita! Thank you for your choice to live under these laws!

My purpose, which I feel strongly is worth making, is to make very clear why the only religion that counts all humans as equal under laws is to be consulted on the matter of who counts as humans, while lawmakers and courts must dismiss as irrelevant who other religions

count as humans. The quotes in the previous footnote clarify Hinduism's opposition to equality for all born humans, which the United States has mercifully rejected in favor of what the world recognizes as Freedom.

(By the way, I quote Wikipedia as evidence of Hinduism's principles because it is a liberal source, and more friendly to Hinduism than conservative sources. The liberal-ness of their articles is evident from what seem like apologies for Hinduism throughout. The one on "Hinduism" actually begins with a claim that the Caste System most likely got its unfairness and rigidity from British occupation! But later the article contradicts that many times; I tried to pick quotes that were the least contradicted by the rest of the article.)

Hinduism

From Hinduism's "Caste System in India": [https://en.wikipedia.org/wiki/Caste_system_in_India]

> Varna, meaning type, order, colour, or class are a framework for grouping people into classes, first used in Vedic Indian society. It is referred frequently in the ancient Indian texts. There are four classes: the Brahmins (priestly people), the Kshatriyas (rulers, administrators and warriors; also called Rajanyas), the Vaishyas (artisans, merchants, tradesmen and farmers), and the Shudras (labouring classes). The varna categorisation implicitly includes a fifth element, those deemed to be entirely outside its scope, such as tribal people and the untouchables (Dalits).
>
> (Applications of the system included) Restrictions on feeding and social intercourse, with minute rules...Segregation,...the dominant caste living in the center and other castes living on the periphery. There were restrictions on the use of water wells or streets by one caste on another: an upper-caste Brahmin might not be permitted to use the street of a lower-caste group, while a caste considered impure might not be permitted to draw water from a well used by members of other castes....Occupation, generally inherited. Lack of unrestricted choice of profession....restrictions on marrying a person outside caste, but in some situations hypergamy ["dating or marrying a spouse of a higher caste"] allowed. ….[sub] castes rise and fall in the social scale, and old [sub]castes die out and new ones are formed, but the four great classes are stable. There are never more or less than four and for over 2,000 years their order of

precedence has not altered.... [From 1000 to 600 BC] The Brahmins and the Kshatriyas are given a special position in the rituals, distinguishing them from both the Vaishyas and the Shudras. The Vaishya is said to be "oppressed at will" and the Shudra "beaten at will."

"The Bhagavad Gita is one of the most revered Hindu texts" [https://en.wikipedia.org/wiki/Bhagavad_Gita] "The title has been interpreted as 'the word of God' [and as] 'celestial song'." The Gita documents at least the Kshatriya [soldier] caste as a "religious" "duty" (dharma) of Hinduism, which should be carried out with "no need for hesitation" even if it is a civil war in which the other side includes your own family and indeed your own religious teachers!

> *B'hagavad Gita*, Chapter 2, Verse 31. Considering your specific duty as a ksatriya, you should know that there is no better engagement for you than fighting on religious principles; and so there is no need for hesitation. Verse 37. O son of Kunti, either you will be killed on the battlefield and attain the heavenly planets, or you will conquer and enjoy the earthly kingdom. Therefore get up and fight with determination.
>
> Wikipedia, *Bhagavad Gita*: "V. R. Narla, in his book length critique of the text titled The Truth About the Gita,... argues that the fact that the Gita tries constantly to make Arjuna kill his kin in order to gain a petty kingdom shows it is not a pacifist work. ….[He] compares the Krishna of the Gita with a modern day terrorist, who uses theology to excuse violence. Narla also cites D.D. Kosambi who argued that the apparent moral of the Gita is 'kill your brother if duty calls, without passion; as long as you have faith in Me, all sins are forgiven...'."
>
> *B'hagavad Gita*, 2:33 If, however, you do not fight this religious war, then you will certainly incur sins for neglecting your duties and thus lose your reputation as a fighter.

This is a very pro-war theology! The opposite of virtuous for being a peacemaker, which Matthew 5:9 says makes one "blessed" (happy), Krishna calls the very desire for peace a "sin"! I didn't even know Hinduism acknowledged the existence of "sin". I thought they were relativists.

> *B'hagavad Gita*, 2:34 People will always speak of your infamy, and for one who has been honored, dishonor is worse

than death. 35.
The great generals who have highly esteemed your name and fame will think that you have left the battlefield out of fear only, and thus they will consider you a coward. Verse 36. Your enemies will describe you in many unkind words and scorn your ability. What could be more painful for you?

Now Krishna says if even enemies, those most inclined to deliberately twist the truth to justify their hate, falsely accuse you, even those false accusations are worse than letting your family live! "What could be more painful for you?" How about arrows and swords piercing your body? It is nothing, no harm at all, to kill another man, but the mere threat of "unkind words" from "enemies" who have always spewed unkind words anyway, are so harmful as to compel you to slaughter your family! This guy Krishna would not get along in America, with our Freedom of Speech! This Krishna is not a "free speech" kind of guy!

Jesus thought it quite foolish to kill another for "honor"! Describing what I take for a challenge to a duel, He said, "Matthew 5:39 But I say unto you, That ye resist [Wesley: " the Greek word translated resist signifies standing in battle array, striving for victory. "] not evil: but whosoever shall smite thee on thy right cheek, [as opposed to] turn to him the other also." (Jesus' own submission to this principle: John 18:22-23)

Krishna thinks we ought to return to the days of dueling! Iowa voters voted to repeal the archaic law against dueling in the Iowa Constitution, in 1992. If courts continue pulling down the Bible to the level of other religions, maybe they will make us put it back in!

Verses 11-27 had explained how killing people doesn't actually hurt anyone because all you are killing is mere bodies; souls are eternal. Which makes verses 34-36 the more astonishing: if you kill me, no big deal. But don't call me names! How can I survive THAT?!

What makes the verses ultra astonishing is the supposed goal of Hinduism: to suppress all "attachment" to any "desire" for anything. We are to worship Apathy Incarnate, and yet pull our guns on any low-life who dares *disrespect* us! Here is an amazing description of righteous apathy:

B'hagavad Gita, 14:21 Arjuna [the military commander] inquired: O my Lord, by what symptoms is one known who is transcendental to those modes? What is his behavior? And how does he transcend the modes of nature? 25 The Blessed Lord

said: He who **does not hate illumination, attachment and delusion when they are present, nor longs for them when they disappear;** who is seated like one unconcerned, being situated beyond these material reactions of the modes of nature, who remains firm, knowing that the modes alone are active; who regards alike pleasure and pain, and looks on a clod, a stone and a piece of gold with an equal eye; who is wise and holds praise and blame to be the same; who is unchanged in honor and dishonor, who treats friend and foe alike, who has **abandoned all fruitive undertakings**--such a man is said to have transcended the modes of nature. 26 One who engages in full devotional service, who does not fall down in any circumstance, at once transcends the modes of material nature and thus comes to the level of Brahman.

We are supposed to not care whether we become wise or foolish. We are to care no more for gold than a clod of dirt. Contrast that with:

Proverbs 3:13 Happy is the man that findeth wisdom, and the man that getteth understanding. 14 For the merchandise of it is better than the merchandise of silver, and the gain thereof than fine gold. 15 She is more precious than rubies: and all the things thou canst desire are not to be compared unto her. 16 Length of days is in her right hand; and in her left hand riches and honour. 17 Her ways are ways of pleasantness, and all her paths are peace. 18 She is a tree of life to them that lay hold upon her: and happy is every one that retaineth her. 19 The LORD by wisdom hath founded the earth; by understanding hath he established the heavens. 20 By his knowledge the depths are broken up, and the clouds drop down the dew.

21 My son, let not them depart from thine eyes: keep sound wisdom and discretion: 22 So shall they be life unto thy soul, and grace to thy neck. 23 Then shalt thou walk in thy way safely, and thy foot shall not stumble. 24 When thou liest down, thou shalt not be afraid: yea, thou shalt lie down, and thy sleep shall be sweet. 25 Be not afraid of sudden fear, neither of the desolation of the wicked, when it cometh. 26 For the LORD shall be thy confidence, and shall keep thy foot from being taken.

God sees value in wisdom, and lesser value in riches, v. 16. God, by wisdom, created the Earth; but the Gita says we must see any value in wisdom. Indeed the process of creation is not understood by

Hindus to involve consciously weighing possibilities and preferring one possibility over another. The Brahman Force just sort of made everything happen without caring if it did.

We are supposed to "abandon all fruitive undertakings". In other words, we are not supposed to do anything with the goal of being successful. We are not supposed to accomplish anything. We are not supposed to have any goals, or if we do, we are certainly not supposed to try to reach them. Without goals, we can't be successful, but neither can we be failures, the Gita tells us.

Islam

A husband should beat his wife if he thinks she wants to leave him: Koran 4:34 … "(as to) those on whose part you fear desertion, admonish them, and leave them alone in the sleeping-places [stop having sex with them] and **beat them**; then if they obey you, do not seek a way against them; surely God is High, Great."

The testimony of two women equals that of one man: Koran 2:282 "...call in to witness from among your men two witnesses; but if there are not two men, then one man and two women from among those whom you choose to be witnesses, so that if one of the two errs, the second of the two may remind the other...." That Surah (verse) is justified on a Moslem website with:

> "This does not mean that a woman does not understand or that she cannot remember things, but she is weaker than man in these aspects – usually. Scientific and specialized studies have shown that men's minds are more perfect than those of women, and reality and experience bear witness to that.... there are some women who are far superior to men in their reason and insight, but they are few, and the ruling is based on the majority and the usual cases." (https://islamqa.info/en/answers/20051/why-is-the-witness-of-one-man-considered-to-be-equal-to-the-witness-of-two-women)

No Freedom of Speech in Islam:

> Koran 5:101-102 "O you who have believed [in Islam], do not ask about things which, if they are shown to you, will distress [challenge] you….A people asked such questions before you; [In the past, when people did that,] then they became thereby disbelievers." (Qur'an) - See more at: http://pamelageller.com/2014/12/after-years-of-being-taught-to-hate-jews-muslim-discovers-he-is-

jewish.html/#sthash.VAjlOphK.dpuf

No Freedom of Religion

> 8.12 When your Lord revealed to the angels: I am with you, therefore make firm those who believe. **I will cast terror into the hearts of those who disbelieve [in Islam]. Therefore strike off their heads and off every fingertip of them.**

Question: Does Islam allow any kind of Freedom of Religion? It seems peace is granted only so long as unbelievers "repent" and "pay the poor rate", which missionaries tell me is, in practice today, an enormous tax that leaves Christians in the most degrading poverty and helplessness. It is not physical aggression of a Christian for which he is to be "fought", but openly questioning Islam, v. 12-13. By contrast, when the Samaritans were rude to Jesus, and Jesus' apostles offered to use their miraculous powers to slay them, Jesus rebuked them: Luke 9:55 "...Ye know not what manner of spirit ye are of. 56 For the Son of man is not come to destroy men's lives, but to save them."

By contrast, the Bible, just like U.S. law today, allows freedom of religious speech and thought, and freedom of religious practice up until the point where "serving" another god involves committing crimes. Deuteronomy 13, for example, doesn't outlaw pagan belief, or speech, but "serving" other gods; burning your child to death was the most common way to "serve" the gods of Bible times, which is, by our laws, a crime.

> **9.5 So when the sacred months** [Ramadan] **have passed away, then slay the idolaters** [Christians who worship the Father, Son, and Holy Ghost, which the Koran says is polygamy] **wherever you find them, and take them captives and besiege them and lie in wait for them in every ambush, then if they repent and keep up prayer** [5 times a day to Allah] **and pay the poor-rate** [an oppressive tax that leaves people very poor], **leave their way free to them;** [let them live] **surely God is Forgiving, Merciful.**
>
> **Fight those who do not believe in God** [Allah], **nor in the latter day** [the belief that in the end times the Mahdi will arise and conquer the world for Islam with Jesus' help, beheading all who "disbelieve"], **nor do they prohibit what God and His Apostle have prohibited, nor follow the religion of truth, out**

of those who have been given the Book [Bible], **until they pay the tax** [a horrible tax that leaves people destitute] **in acknowledgment of** [our] **superiority and they are in a state of subjection** [slavery].

No Forgiveness

9.113 It is not (fit) for the Prophet and those who believe that they should ask forgiveness for the polytheists, even though they should be near relatives, after it has become clear to them that they are inmates of the flaming fire.

5.41 "O Messenger! let not those grieve thee, who race each other into unbelief: (whether it be) among those who say 'We believe' with their lips but whose hearts have no faith; or it be among the Jews -- men who will listen to any lie -- will listen even to others who have never so much as come to thee. They change the words from their (right) times and places: they say, 'If ye are given this, take it, but if not, beware!' If any one's trial is intended by Allah, thou hast no authority in the least for him against Allah. For such – it **is not Allah's will to purify their hearts.** For them there is disgrace in this world, and in the Hereafter a heavy punishment." (5:41)

A Muslim should hate even family members who are not Muslims: "There has already been for you an excellent pattern in Abraham and those with him, when they said to their people, 'Indeed, we are disassociated from you and from whatever you worship other than Allah. We have denied you, and there has appeared between us and you **animosity and hatred forever until you believe in Allah alone.**" (60:4).

Allah transforms disobedient Jews into apes and pigs (2:63-66; 5:59-60; 7:166).

This surah was the subject of a question submitted to a Muslim site hoping to provide sensible answers to questioners about Islam. The question and answer: "https://islamqa.info/en/answers/14085/are-the-monkeys-and-pigs-that-exist-nowadays-humans-who-have-been-transformed" ?

"Could you please tell me about monkeys. Are they humans who were turned into monkeys for disobeying Allahs commandments? if so which people were they and what did they do?"

The answer acknowledges surahs saying people *were* turned

into monkeys and pigs, and agrees that is really what happened, but the monkeys today weren't people from the past because the monkeys that were former people lost their ability to reproduce! Which actually doesn't answer whether monkeys today might be people *recently* turned into monkeys. Oh well. I guess we will never know?

This should help us understand how much to trust Islam today as a reliable guide to reality – the Koran itself, and its modern defenders.

Questions I have asked Moslem leaders:

Does there exist a translation of these verses which is true to the text yet which encourages Muslims to live in peace and cooperation with Christians and Jews?

Do there exist verse-by-verse commentaries of the Qu'ran, like we have of the Bible, where I can look up these verses and have explained how these verses actually support peace with "people of the Book"?

When you pray for "victory over those who disbelieve", in the mantra which you recite many times a day over almost every event in your lives, do you mean physical victory? Do you believe Christians and Jews "disbelieve"?

So far, I have had lengthy dialog with a half dozen Moslem leaders, which came to an end when I asked these questions.

One of them is posted at https://www.youtube.com/watch?v=cQRxbmBRjNU.

Headlines from the Palestinian/Israel war of October, 2023, comparing the barbarity of the Palestianians with the barbarity demanded by the Koran, supporting the controversial theory that the Palestinians are actually following the Koran

https://gellerreport.com/2023/10/in-israel-babies-discovered-with-their-heads-cut-off.html/?lctg=36933672

"The Israeli soldiers discovered babies with heads cut off"

"The Israeli soldiers discovered families butchered altogether, women raped, children killed while playing, babies with heads cut off"

Hamas beheaded babies in accordance with Islamic texts and teachings. Quran 47:4: So, when you encounter the unbelievers, strike

at their necks…

The bodies were discovered lying on the floors in their homes, some without heads after Hamas gunman stormed a residential area in Kfar Aza on Saturday. IDF soldiers were not able to reach the homes until today as they continued to fight gunman and clear booby traps that had been laid in and outside the homes. Israeli Major General Itai Veruv said: "It is something that I never saw in my life."

Watch i24NEWS Correspondent Nicole Zedek report from Kibbutz Kfar Aza, a quarter-mile from the Gaza border. Here she recounts the atrocities that were committed in the small community which remains an active scene as soldiers clear booby traps and recover the bodies of dozens of victims.

https://gellerreport.com/2023/10/photos-emerge-of-jewish-children-burned-alive-by-hamas.html/?lctg=36933672 (This is a link to photos of "Jewish Children Burned Alive By Hamas")
https://gellerreport.com/2023/10/watch-hamas-terrorist-admit-true-motive-for-kidnapping-babies-and-children-to-rape-them.html/?lctg=36933672

WATCH Hamas Terrorist Admit True Motive For Kidnapping Babies and Children: "To Rape Them"

By Pamela Geller - on October 11, 2023
Video of Interrogation of Hamas terrorist: "why did you want to capture women and children?" "I don't want to talk about it." "Talk!" "To have our way with them." "What does that mean?" "To dirty them. To rape them."

The Qur'an teaches that non-Muslim women can be lawfully taken for sexual use (cf. its allowance for a man to take "captives of the right hand," 4:3, 4:24, 23:1-6, 33:50, 70:30). The Qur'an says: "O Prophet, tell your wives and your daughters and the women of the believers to bring down over themselves of their outer garments. That is suitable that they will be known and not be abused. And ever is Allah Forgiving and Merciful." (33:59) The implication there is that if women do not cover themselves adequately with their outer garments, they may be abused, and that such abuse would be justified.

https://www.theepochtimes.com/world/israelis-describe-hellish-scenes-in-communities-attacked-by-hamas-terrorists A baby, an infant, riddled with bullets. Soldiers beheaded. Young people burned alive in their cars or in their hideaway rooms. Horrifying photos of babies murdered and burned.

Children and adults decapitated...babies that were hanged in a row with their mothers' bras. ...the volunteers encountered booby traps placed under the victims' bodies.

Burnt bodies, burnt houses everywhere. Decapitated heads of children of several ages. The smell of rotting corpses [is so bad] that you can't even breathe. Bodies of babies tied up.

At the end of the kibbutz, in a house that was completely destroyed, they [the babies] are sitting on a fence outside of the house. Their bodies are burned. Their parents, sitting in front of them, are slaughtered.

Even more harrowing scenes: a pregnant woman with her stomach cut open and a woman burned in a wheelchair.

https://gellerreport.com/2023/10/top-secret-hamas-documents-show-that-terrorists-intentionally-targeted-children-elementary-schools-and-youth-center.html/

'Top secret' Hamas documents show that terrorists intentionally targeted CHILDREN elementary schools and youth center

By Pamela Geller - on October 14, 2023

'Top secret' Hamas documents show that terrorists intentionally targeted elementary schools and a youth center.

Maps and documents recovered from the bodies of Hamas attackers reveal a coordinated plan to target children and take hostages inside an Israeli village near Gaza.

The terrorists forgot that on Shabbat (Saturday), when they attacked, children aren't in school.

https://gellerreport.com/2023/10/witness-children-were-tortured-in-front-of-their-parents-parents-in-front-of-their-children-eyes-gouged-out-fingers-chopped-off.html/?lctg=36933672

Witness: 'Children Were Tortured In Front of Their Parents, Parents In Front of Their Children ....Eyes Gouged Out, Fingers Chopped Off..."

By Pamela Geller - on October 19, 2023

We saw a couple – mother and father – sitting on their knees on the floor, heads down, hands tied behind their back

On the other side of the dining room was a seven year old boy and a girl, about 6 years old, hands tied behind their back. The bodies were tortured.

Gouged out eyes, cut off flesh, and then shot them with their hands tied behind their backs.

There's a new website (https://sites.google.com/view/hamas-massacre-new/home) that contains all videos and images of documented Hamas War Crimes from October 7th, including raw footage from the attacks.

The world must know the enemy we are fighting. The enemy whose clearly stated intentions are to rid Israel of its Jews and then the world.

https://gellerreport.com/2023/10/hamas-terrorists-were-told-by-commanders-to-behead-israelis-and-cut-their-feet-and-what-they-did-to-the-bodies-of-jewish-women.html/?lctg=36933672

Hamas terrorists were told by commanders to behead Israelis and cut their feet and what they did to the bodies of Jewish women

By Pamela Geller - on October 21, 2023

Israeli Morgue: 'Evidence of mass rape of so brutal that they broke their victims' pelvis – women, grandmothers, children.' 'People whose heads have been cut off. Faces blasted off. Heads smashed and their brains spilling out. A baby was cut out of a pregnant woman and beheaded and then the mother was beheaded'

"Charred remains and a CT scan of the remains show a parent and child who were bound together and burned alive by Hamas terrorists on Oct. 7. Two spinal columns—one of an adult and one of a child—can be seen in the scan. The pair were likely embracing as they burned."

Israeli Forensic team: cut, burned alive, raped (inc. very young and very old women), arms and feet cut off, beheaded. Children tied together & burned alive. Entire families slaughtered together.

The age range of the victims spans from 3 months to 80 or 90 years old. Many bodies, including those of babies, are without heads.

15 More about **"There can be 'free exercise' of religions which do *not* equally reverence all human life *only* to the extent their 'exercise' does not violate the rights of others...."**

For as long as courts are allowed to remain "scrupulously neutral" about whether Molech worship stands equal with Christianity before American law, along with remaining "scrupulously neutral" about whether the babies we are slaughtering are people, "free exercise of religion" for

Molech worshipers will remain perfectly logical.

Will prolifers sit on their hands over this, moaning, "they have a point; they have THEIR religion TOO", when courts give satanists a "religious exemption" from abortion restrictions, for which they have already sued in Texas? And when satanists succeed, will that courtroom "religious exemption" motivate moms to profess Satanism so they can murder their baby not only legally but with society's admiration for standing up for their "faith"?

When will prolifers end courtroom "scrupulous neutrality" about murder, using robust affirmation of the consensus of court-recognized fact finders? When will Christians and Jews challenge the equality, before American law, of the Bible with the Koran, the Satanic Bible, the Communist Manifesto, the Humanist Manifesto, the B'hagavad Gita and Vedas, and the books of curses used by witch doctors?

The Bible is the source of American freedom, and remains its single defender in all its essential details among religions. To prefer American freedom over the tyrannies resulting where other religions are dominant, yet "scrupulously" block preference for the Bible, is irrational and is the reason for a long line of Landmark Abomination Cases, of which murdering babies is but one item on a long list of abominations.

Adding this phrase to Findings of Facts of a prolife bill will begin to return America to God to save the physical bodies of babies and the souls of Christian voters.

See the section**"What Happened to Unalienable Rights, and How to Get Them Back"** for:

* Landmark Abomination Cases

* The satanic "church" lawsuit: empowered by court "neutrality" about religion

* 'Substantive Due Process': how SCOTUS usurped the Constitution's Authority to Define Rights, and Congress' Authority to Enforce Rights, into its own authority to reclassify abominations as 'rights'

* Crumbling Anti-Christian dogmas (*Lemon, Employment Division*); how Truth can fill the vacuum – Matthew 12:44

* Solutions: Understanding Establishment of Religion: a Tour through Reality with the Bible as our Guide

* Solutions: Judicial Accountability Act: How Legislatures can stop judges from legislatingSee the section**"What Happened to**

Unalienable Rights, and How to Get Them Back" for:

* Landmark Abomination Cases

* The satanic "church" lawsuit: empowered by court "neutrality" about religion

* 'Substantive Due Process': how SCOTUS usurped the Constitution's Authority to Define Rights, and Congress' Authority to Enforce Rights, into its own authority to reclassify abominations as 'rights'

* Crumbling Anti-Christian dogmas (*Lemon, Employment Division*); how we can fill the vacuum with Truth. Matthew 12:44 (the Supreme Court has officially abandoned the Lemon Test – which drove the Ten Commandments from schools), and a 70 page dissent by four justices shows readiness to finally overturn *Employment Division v. Smith* – which Congress struggled to mitigate with the RFRA, Religious Freedom Restoration Act. But no clear, rational alternative policy for managing "free exercise of religion" as emerged capable of rationally addressing challenges like that of the satanist "church", or of several Abomination Cases of the past.)

* Solutions: Understanding Establishment of Religion: a Tour through Reality with the Bible as our Guide

* Solutions: Judicial Accountability Act: How Legislatures can stop judges from legislating

But the Supreme Court is only a pebble in the path compared to the real obstacle to saving babies and healing American Freedom. The fundamental question before our posterity: "when the Son of man cometh, shall he find faith on the earth?" Luke 18:8

Part 3: Myth Busters

Misunderstandings that have divided prolifers, confused judges, and crippled prolife legal strategies

Ecclesiastes 9:10 Whatsoever thy hand findeth to do, do it with thy might; for there is no work [thing made]**, nor device** [computation]**, nor knowledge** [education]**, nor wisdom** [skill]**, in the grave** [eternity]**, whither thou goest.**

1 Corinthians 13:8 Charity never faileth [the love we develop here will follow us into eternity]**: but whether there be prophecies** [special revelations]**, they shall fail** [be rendered useless]**; whether there be tongues** [languages that prevent communication with everyone]**, they shall cease** [pause; stop]**; whether there be knowledge, it shall vanish away** [be rendered useless]**. ...10 But when that which is perfect is come,**

then that which is in part shall be done away.... 12 For now we see through a glass, darkly; but then face to face: now I know in part; but then shall I know even as also I am known.

Matthew 6:19 Lay not up for yourselves treasures upon earth... 20 But lay up for yourselves treasures in heaven, where neither moth nor rust doth corrupt, and where thieves do not break through nor steal: 21 For where your treasure is, there will your heart be also. ...25 ...Take no thought for [don't be so worried about] **your life, what ye shall eat, or what ye shall drink; nor yet for your body, what ye shall put on. Is not the life more than meat, and the body than raiment?** [Can't you think of more to live for than to just stay alive?]**...30 Wherefore, if God so clothe the grass of the field, ...shall he not much more clothe you, O ye of little faith? ...32 ...your heavenly Father knoweth that ye have need of all these things. ...33 But seek ye first the kingdom of God, and his righteousness; and all these things shall be added unto you.**

Our covered wagons lie unused and useless in museums because now we have much better cars, trains, and planes. We don't send messages by runners because now we have cell phones. Will we need no manufactured products in Heaven because like "Q" in Star Trek we will be able to create by word and thought, our own "holodecks"? Will we need no books, studies, or skill development because our minds will be "online" with a Search Engine operating on II (Infinite Intelligence)?

Yet there is important work to do here which can't be done after we die: overcome obstacles with limited resources, which challenge and develop our faith.

Football would be a lot easier without an opposing team. Carrying our ball to the goal would be so easy an old man could do it in a wheel chair. But what "great cloud of witnesses" (Hebrews 12:1) would watch it? How interesting would it be? What movie would be made of it?

Love is the exception to "you can't take it with you." Let's work hard, and love hard. Let's choose "life more abundantly". *Here and now* is our opportunity.

Heaven is no retirement home. Luke 19:17 says the greater authority and opportunity we will have in Heaven is like being put in charge of ten cities, in Heaven, if while on Earth we have done ten times as much good, serving others out of love, as we seemed to have the capacity.

Finding #7. Congress has *Already* Enacted a Personhood Law as Strong as a "Life Amendment". The 14th Amendment *already* authorizes Congress to require all states to outlaw abortion.

Congress established in 2004 that: "'unborn child' means a child in utero, and the term 'child in utero'...means a member of the species Homo Sapiens, at any stage of development, who is carried in the womb", 18 U.S.C. 1841(d).[1]

This fact is not diminished by clause (c) which does not "permit [authorize] the prosecution of any person for...an abortion for which the consent of the pregnant woman...has been obtained.…"[2] A law misaligned with facts does not block future lawmakers from making corrections, and states don't need Congress' "permission" to obey the 14th Amendment.

The reason 18 U.S.C. 1841(d) has had no effect on the practice of legal abortion is not because of any deficiency in its authority to establish dispositive facts, but because *no state law reviewed by SCOTUS has cited it* to establish what *Roe* correctly said once "established" would "of course" require the end of legal abortion.

Not only is the 2004 law unmitigated evidence of life strong enough to "collapse" legal abortion by itself, but it would not be stronger if it were an

Amendment to the Constitution.[3] No other Constitutional Amendment is relied on for evidence of a fact. An Amendment can bind courts. But establishment of the Facts Of Life by evidence presented, cited, and tested in court draws not only courts, but society, closer to reality.[4] 26/246 words

1 More about "'unborn child' means...a member of the species Homo Sapiens..."

"Federal law recognizes human infants in utero, and premature infants born alive, as persons under the law at any gestational age. The federal Unborn Victims of Violence Act recognizes the "child in utero" as "a member of the species homo sapiens, at any stage of development, who is carried in the womb" whose death or injury in the course of a federal crime is subject to prosecution the same as that of any born child or adult individual. 18 U.S.C. § 1841(d), (a)(1).

"The federal Born Alive Infants Protection Act establishes even more broadly that, for purposes of 'any Act of Congress' and 'any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States,' 'the words "person", "human being", "child", and "individual", shall include every infant member of the species homo sapiens who is born alive at any stage of development." 1 U.S.C. § 8 (a). (From the amicus brief of *Center for Medical Progress and David Daleide* filed in Dobbs v. Jackson. www.supremecourt.gov/DocketPDF/19/19-1392/185155/20210728163153060_Amici Brief of CMP-Daleiden.pdf)

2 More about "clause (c) does not 'permit [authorize] the prosecution of any person for...an abortion for which the consent of the pregnant woman...has been obtained.…"

Finding #7 refutes the official position 19 years ago of prolifers and Republican Congressmen that 1841(c) robs clause (d) of any power to undermine Roe. "By its express terms, the Unborn Victims of Violence Act does not apply to, nor in any way affect nor alter, the

ability of a woman to have an abortion." - House Judiciary Committee report, 2/11/2004[https://www.nrlc.org/uploads/unbornvictims/UVVAHJCreport2004.pdf]

"The law explicitly provides that it does not apply to any abortion to which a woman has consented, to any act of the mother herself (legal or illegal) ...It is well established that unborn victims laws (also known as 'fetal homicide' laws) do not conflict with the Supreme Court's pro-abortion decrees (*Roe v. Wade,* etc.). The state laws mentioned above have had no effect on the practice of legal abortion." - Key Facts on the Unborn Victims of Violence Act 4/1/2004 nrlc.org. [https://www.nrlc.org/federal/ unbornvictims/keypointsuvva NRLC.org]

Clause (d) has not proved able to end legal abortion only because prolife lawmakers have not cited it in support of that goal. Which has been a total pleasant surprise to Democrats. These quotes are repeated from Note #2, Finding #3:

> Senator John Kerry, who was a main opponent of President George W. Bush in the 2004 presidential election, voted against the bill, saying, "I have serious concerns about this legislation because the law cannot simultaneously provide that a fetus is a human being and protect the right of the mother to choose to terminate her pregnancy."
>
> Representative Jerrold Nadler made a statement in voicing his opposition to a proposed federal law giving prenatal entities certain legal rights. "The bill appears to contradict an important premise behind the constitutional right to seek an abortion: prenatal entities are not persons." [https://en.wikipedia.org/wiki/Unborn_Victims_of_Violence_Act]

☙ More about "(18 USC 1841(d)) **would not be stronger if it were an Amendment to the Constitution."**

Professor Nathan Schluetter: "While I don't object to a constitutional amendment that would extend special protection to unborn persons-especially since such an amendment would presumably lodge protection for the unborn beyond the discretion of partisan courts, and also dispose of any potential problems with respect to state action-**such an amendment is constitutionally superfluous.** The issue of protecting the basic rights of persons from hostile or indifferent state governments was constitutionally **resolved almost one hundred and fifty years ago in the Fourteenth Amendment,** purchased with the

blood of hundreds of thousands of American lives in the awful crucible of the Civil War. The constitutional debate over abortion, then, is ultimately a rehearsal of the very same questions that shook the nation during the Civil War." (See Finding #11 for more about the Civil War context of the 14th Amendment.)

More personhood amendments in laws and constitutions help, except to the extent lawmakers imagine that must be done before anything else can be effective. There are already enough – 38 states and Congress – to stop waiting before we take the next step of citing all that evidence, plus the findings of other fact finders, in courts reviewing prolife laws.

☙ More about **"Establishment of the Facts Of Life by evidence presented, cited, and tested in court draws not only courts, but society, closer to reality."**

See Finding #2, note #1.

Philippians 4:11…I have learned, in whatsoever state I am, *therewith* to be content. 12 I know both how to be abased, and I know how to abound: every where and in all things I am instructed both to be full and to be hungry, both to abound and to suffer need. 13 I can do all things through Christ which strengtheneth me.

In other words, "I've been initiated; I have a doctorate; I am an expert; I have a diploma from the School of Hard Knocks."

"School of Hard Knocks" is a cynical idiom. But learning to be content with whatever work lies before us, and not just content but ready to do it "with all our might", is a key to "life more abundantly".

The fact is what we choose to like is completely arbitrary. We choose to not like to wash dishes but rather to like video games. The choice is proved arbitrary by the facts that (1) some people like to wash dishes but hate video games, and (2) the same person who hated hard work but must do it anyway, learns it is challenging, and is inspired to excellence, and is sorry he did not master it sooner. We choose to hate pain, but not always; hard work requires a certain amount of exhaustion and concentration to a painful degree, and athletes suffer pain as part of their sport , love it, and brag about it.

This proves the capacity God put within each of us to learn to love every challenge, every duty, every obstacle, that God orchestrates in our lives, to make our lives full of purpose, and fun.

Finding #8: Roe, Dobbs, and the 14th Amendment agree: All Humans are "Persons".[1]

Neither *Dobbs* nor *Roe* distinguished between "humans" and "persons" as if a "human" baby isn't necessarily a "person".[2] The word "person" in the 14th Amendment means "An individual human being...man, woman, or child...consisting of body and soul." The word "child" in the definition includes unborn children, since to be "with child" means to be pregnant.[3]

Therefore the Amendment's "equal protection" of all "persons" means of all humans, including those unborn. Only the Amendment's first clause is about born people. That doesn't limit the rest of the Amendment to protecting only those who are born.[4]

Dobbs cites the belief that "a human person comes into being at conception" without distinguishing between the two words.[5]

Roe v. Wade equated the time an unborn child becomes "recognizably human" with the time the child becomes a "person": "These disciplines variously approached the question in terms of the point at which the embryo or fetus became 'formed' or recognizably human, or in terms of when a 'person' came into being, that is, infused with a 'soul' or

'animated.'" 410 U.S. 113, 133(1973)

See also Wong Wing v. United States, 163 U.S.228, 242 (1896), "The term 'person' is broad enough to include any and every human being within the jurisdiction of the republic...This has been decided so often that the point does not require argument." Steinberg v. Brown 321 F. Supp. 741 (N.D. Ohio, 1970) "[o]nce human life has commenced, the constitutional protections found in the Fifth and Fourteenth Amendments impose upon the state a duty of safeguarding it".[6]

The word "persons" in the 14th Amendment means all who are IN FACT humans. Had it been only for those who are *legally recognized* as human, every deprivation of fundamental rights would be "constitutional" so long as a law or ruling questions whether its victims are "persons in the whole sense".

Even if reverence for all human life from fertilization were *not* "deeply rooted in America's law and traditions", courts err in making that history the test of whether rights merit 14th Amendment protection, because the Amendment was created to end slavery. By the "deeply rooted" test slavery would still be legal, because freedom for slaves had zero historical support. There is a *direct* test by which babies *do* merit 14th Amendment protection from abortion that does not require a romp through

history.[7]

Nor does it matter if the Amendment authors even *wanted* to protect all humans. In fact, *it doesn't matter if there is a 14th Amendment*. If law is not equal upon its operation on all humans, which is the very definition of the word "law" as developed by Samuel Rutherford's "Lex Rex" and Blackstone and adopted by America's founders, to that extent there is, by definition, no "rule of law", no restraint upon the "strong" to not tyrannize the "weak".

"To say that the test of equal protection should be the 'legal' rather than the biological relationship is to avoid the issue. For the Equal Protection Clause necessarily limits the authority of a State [or its judges] to draw such 'legal' lines as it chooses." Glona, 391 U.S. 73, 75 (1968)[8] 11/469 words

1 More about "Roe, Dobbs, and the 14th Amendment agree: All Humans are 'Persons'"

Although *Roe* defines "persons" as "recognizably human", *Roe* encouraged the myth that not all humans are people by saying "...the [lawyer for the babies] conceded on reargument that no case could be cited that holds that a fetus is a person within the meaning of the Fourteenth Amendment. The Constitution does not define 'person' in so many words. ...the use of the word is such that it has application only post-natally. None indicates, with any assurance, that it has any possible pre-natal application." 410 U.S. 113, 157 (1973)

Notice that this is not a positive statement that babies are *not* people; it alleges a lack of evidence that babies *are* people. This is ruled out as a positive statement by at least three *Roe* statements: its "collapse" clause which acknowledges the possibility of that evidence

being “established”, its “the judiciary...is in no position to speculate [about] when life begins” clause, and its “we would not have (legalized abortion if we knew baby humans are humans)” clause.

Roe’s seemingly new legal distinction between “human” and “person” was clear enough for much hand-wringing in prolife literature, culminating in the founding of PersonhoodUSA (www.personhood.org) whose “Strategy” category begins with a legal thesis arguing for treating the two words as synonymous. (www.personhood.org/wp-content/uploads/2020/02/Lugosi-The-Constitutionality-of-Personhood.pdf)

The thesis observes: “Justice Stevens, [in *Casey*] in concurrence with the majority, correctly observed that there has never been a single dissent (let alone a majority opinion) by any Justice on the fundamental issue decided in Roe that the fetus was not a ‘person’ within the language and meaning of the Fourteenth Amendment.” *Planned Parenthood v. CASEY*, 505 U.S. 833, 913 (1992) the thesis continues: “Justice Blackmun made the same point in Casey, and added that even the Solicitor General in oral submissions before the Court did not question the constitutional non-personhood status of the unborn child.” (p. 932)

Here is Blackmun’s statement in *Casey,* which the PersonhoodUSA thesis summarizes:

> “No Member of this Court - nor for that matter, the Solicitor General, ... has ever questioned **our holding in *Roe* that an abortion is not ‘the termination of life entitled to Fourteenth Amendment protection.’** 410 U.S., at 159 . Accordingly, a State’s interest in protecting fetal life is not grounded in the Constitution. Nor, consistent with our Establishment Clause, can it be a theological or sectarian interest. See Thornburgh v. American College of Obtetricians and Gynecologists, 476 U.S. 778, 747 , (1986) (STEVENS, J., concurring). It is, instead, a legitimate interest grounded in humanitarian or pragmatic concerns.”

It is hypocritical that Blackman censored any “theological...interest”, after authoring *Roe* in which his alleged lack of consensus among theologians as well as among doctors was his primary rationale for excusing judicial ignorance of “when life begins””

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

Nor is Roe's following statement a positive statement that SCOTUS knows babies are *not* people:

> "Indeed,...we would not have indulged in statutory interpretation favorable to abortion in specified circumstances if the necessary consequence was the termination of life entitled to Fourteenth Amendment protection." – *Roe v. Wade* at 159.

2 More about **"Neither Dobbs nor Roe distinguished between 'humans' and 'persons' as if a 'human' baby isn't necessarily a 'person' "**

Professor Schluetter: "The word 'person'...has been given a very liberal construction by the Supreme Court to include all human beings, be they minors, prisoners, aliens, enemies of the state, and even corporations. Indeed, apart from Roe , the Court has never once differentiated between 'person' and 'human being,' nor has it ever excluded a human being from the due process protections of the Fourteenth Amendment." [And even in Roe, part of Roe's definition of "person" was "recognizably human".]

"So it is a fair legal inference to say that if it can be demonstrated that an unborn child is a human being, then that child will constitute a 'person' for Fourteenth Amendment purposes."

3 More about **"The word 'person' in the 14th Amendment means 'An individual human being...man, woman, or child...consisting of body and soul.' "**

Judges look everywhere but in a dictionary to learn what Americans who ratified the 14th Amendment understood the word "person" to mean. In 1868, Webster's dictionary, published in 1828, was the only American dictionary.

https://webstersdictionary1828.com. "People: 1. The body of persons who compose a community, town, city or nation. We say, the people of a town; the people of London or Paris; the English people In this sense, the word is not used in the plural, but it comprehends all classes of inhabitants, considered as a collective body, or any portion of the inhabitants of a city or country.

> "Person: 1. **An individual human being consisting of body and soul.** We apply the word to living beings only, possessed of a rational nature; the body when dead is not called a person. **It is applied alike to a man, woman or child.** A person is a thinking intelligent being.

"Child: 1. A son or a daughter; a male or female descendant, in the first degree; the immediate progeny of parents; applied to the human race, and chiefly to a person when young. The term is applied to infants from their birth...**To be with child** [means] **to be pregnant.** Genesis 16:11, Gen 29:36."

Blackstone was a widely consulted source of understanding of legal terms. An amicus brief filed in Dobbs v. Jackson by "Scholars of Jurisprudence John M. Finnis and Robert P. George" says:

> When House Judiciary Committee Chairman James F. Wilson introduced the Civil Rights Act of 1866, he... was quoting Blackstone's Commentaries' first Book, 'Of the Rights of Persons,' and its first Chapter, 'Of the Absolute Rights of Individuals.'...Blackstone's analysis, presented as uncontroverted and familiar to Wilson's listeners in Congress, begins with the "right of personal security"—"a person's legal and uninterrupted enjoyment of his life, his limbs, his body, his health ...." And Blackstone's unfolding of this right of persons opens immediately after Wilson's quotation with two paragraphs about the rights of the unborn:
>
> 1. Life is the immediate gift of God, a right inherent by nature in every individual; and it begins in contemplation of law as soon as an infant is able to stir in the mother's womb....Then comes Blackstone's second paragraph on unborn children's rights: An infant in ventre sa mere, or in the mother's womb, is supposed in law to be born for many purposes.
>
> State high courts in the years before 1868 declared that the unborn human being throughout pregnancy "is a person" and hence, under "civil and common law," "to all intents and

purposes a child, as much as if born." Hall v. Hancock, 32 Mass. (15 Pick.) 255, 257-58 (1834). ...which cited many English cases.

The unborn is "a child, as much as if born" and "is a person in rerum naturâ." (BLACK'S LAW DICTIONARY (11th ed. 2019) ("In the nature of things; in the realm of actuality; in existence."). [That is, "in fact".])

Among the legally informed public of the time, the meaning of "any person"—in a provision constitutionalizing the equal basic rights of persons—plainly encompassed unborn human beings.

Blackstone's definition is also relevant to the understanding 1868 Americans had of "persons", because they were "a legally educated public brought up on the [Blackstone] Commentaries", in the words of the Amicus Brief filed in Dobbs v. Jackson by "Scholars of Jurisprudence John M. Finnis and Robert P. George". (www.supremecourt.gov/DocketPDF/19/19-1392/185196/20210729093557582_210169a%20Amicus%20Brief%20for%20efiling%207%2029%2021.pdf)

More about **"The fact that one part of the Amendment is about people who are born does not limit the rest of the Amendment to protecting only those who are born."**

An elementary grammar error is a major excuse for the slaughter of 70 million souls, as pointed out by an amicus brief filed in *Dobbs v. Jackson* by Mary Kay Bacallao Advocating for Unborn Children. (http://www.supremecourt.gov/DocketPDF/19/19-1392/185109/20210728121621904_19-1392 Brief Amicus Curiae.pdf)

> It is time to extend to unborn children the equal protection and due process rights they enjoyed in Mississippi until the Roe Court made an **elementary grammar error, using a phrase that conferred citizenship in one clause to define personhood for other clauses.** It is time to correct the **Roe Court's error in refusing to determine when life began and in the same stroke of the pen stripping the unborn of their personhood, citing the very amendment that codified the right of all persons, born and unborn, to equal protection and due process.**

THE ROE COURT MISINTERPRETED THE MEANING OF

THE WORD "PERSON" AS FOUND IN THE FOURTEENTH AMENDMENT. The Fourteenth Amendment to the U.S. Constitution includes the following three references to persons:

[1.] "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.] "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law;"

[3.] "nor deny to any person within its jurisdiction the equal protection of the laws."

(*The full text of Amendment 14, Section 1: "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. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*")

Here, in looking at statutory construction cannons such as noscitur a sociis, which means, "it is known by its companions," the meaning of the word "persons" can only be ascertained by its associates. In the first instance, "persons" is being modified by "born or naturalized in the United States, and subject to the jurisdiction thereof…" Here, "persons" is a general term that is being limited at least by two conditions, either "born" or "naturalized." In this instance, the Fourteenth Amendment limits the type of persons who can be citizens to those either born or naturalized in the United States and subject to the jurisdiction thereof.

In the second instance, no "person" shall be deprived of life, liberty, or property, without due process of law, where "person" is used generally, unmodified by "born" or "naturalized, etc." Here "citizens" as defined in the first instance is separate and distinct from "person" found in the second part of the sentence. The second use of "person" is unmodified. These persons are not necessarily citizens, nor does it follow that they must necessarily be "born."

In the third instance, "any person" is also unmodified by either "born" or "naturalized, etc." In other words, "person" is

not limited to a person "born" or "naturalized in the United States," rather, the term "person" is again unmodified and used in the general sense. Thus, where the second use of the term "person" prohibits a State from depriving a person of life, liberty, or property, without due process of law, "person" is used generally rather than in the context of being "born." Additionally, where the third use of the term "person" does not allow a State to deny to any person within its jurisdiction the equal protection of the laws, again, "person" is unmodified. This does not limit protection to "persons born or naturalized in the United States…"

To assert that one word, such as "born," that is used in a single line to limit a general term, such as "person," in one provision also limits that same general term, in this case "person," each time it occurs 5 is linguistically incorrect. It is the same as saying that because one line refers to a black cat, all other times the word cat appears it can only refer to cats that are black. This is not the way language works.

There is no evidence that the original meaning of person was limited to those who were born. Rather, the corpus evidence found in COHA, the Hansard Corpus, and the Corpus of U.S. Supreme Opinions point to the unborn as persons, legally able to inherit property and in need of protection.

The Roe court did not resolve the question of when life begins, "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."4 However, the Roe Court maintained that "… the word 'person,' as used in the Fourteenth Amendment, does not include the unborn."5 The Roe Court used faulty linguistics in determining that someone unborn was not a 'person' as used in second and third parts of the Fourteenth Amendment. In the first use of person, 'born' modifies or limits the meaning of 'person,' not the other way around. The Roe Court did not use proper linguistic interpretation of the text of the Fourteenth Amendment when limiting its interpretation of the second and third references to persons as those who were born.

The second reference to person in the Fourteenth Amendment, stating that a State may not deprive any person of

life, liberty, or property, without due process of law applies to persons both born and unborn. The third reference to person in the Fourteenth Amendment, where a State may not deny to any person within its jurisdiction the equal protection of the laws also applies to persons both born and unborn. Simple linguistics, applied to these provisions in the U.S. Constitution, where the word person is unmodified by the word "born" confirms that a person is a person no matter how small.

5 More about **"Dobbs cites the belief that 'a human person comes into being at conception' without distinguishing between the two words."**

Unfortunately many prolifers have thought Roe created a distinction which *Roe* did not. The myth that proof that babies are humans falls short of proving they are "persons" made prolifers fail to appreciate how overwhelming the consensus is of court-recognized finders of facts, that all unborn babies "at all stages of gestation" have 14th Amendment protection. The false impression that that isn't enough evidence yet to topple legal abortion kept many prolifers from supporting legislation that would have challenged legal abortion with the overwhelming evidence we already have, until we could pass more "personhood laws" and add "babies are persons" to the U.S. Constitution.

The assumption that *Roe* ruled that not all humans count as "persons" protected by the 14th Amendment led prolifers to think the consensus of fact finders that babies are humans didn't count as evidence that would trigger *Roe's* "collapse" clause. But the quibble of *Roe* was not whether babies are "persons" or merely "humans", but whether very young babies depicted in Dorland's fraudulent Illustrated Medical Dictionary as indistinguishable from pig fetuses are "recognizably human".

To see those illustrations, and where they are cited in Roe, and to read some of the controversy about their fraudulent origins that was discovered when they were first published a century ago, see Appendix I of the book cited in Footnote #5.

look the same, in *Dorland's Illustrated Medical Dictionary,* p.

166. (See Appendix I in my book, *How States can Outlaw Abortion in a Way that Survives Court,* posted as a free PDF at www.Saltshaker.us or as a paperback on Amazon.)

Perhaps this misunderstanding is less needed now that Dobbs has "repealed" Roe, which has supposedly separated "persons" and "humans". Unfortunately not every lie pioneered by Roe has been executed and buried. So leaving this unclarified will probably provide one more temptation for judges to gaslight voters.

6 More about **"[o]nce human life has commenced, the constitutional protections found in the Fifth and Fourteenth Amendments impose upon the state a duty of safeguarding it"**

"Even prior to the ratification of the Fourteenth Amendment, this Court acknowledged that the word 'person' in law was a term designed to include all of humanity. In *United States v. Palmer*, 16 U.S. 610 (1818), Chief Justice Marshall explained that 'every human being' and 'the whole human race' was included in the words 'person or persons' in federal law. Id. at 631–32.

"And in *Levy v. Louisiana*, 391 U.S. 68 (1968), this Court articulated a simple test for ensuring equal protection for marginalized persons, reasoning that so-called 'illegitimate' children were not 'non-persons' as they were 'humans, live, and have their being,' and therefore, 'clearly "persons" within the meaning of the Equal Protection Clause of the Fourteenth Amendment.'". (From the amicus brief of Center for Medical Progress and David Daleide filed in *Dobbs v. Jackson*. www.supremecourt.gov/DocketPDF/19/19-1392/185155/20210728163153060_Amici Brief of CMP-Daleiden.pdf)

7 More about **"If it were, slavery would still be legal because freedom for slaves has zero historical support"**

Slavery had existed in every country from the beginning of recorded history. Nor had the Constitution supported the end of slavery. The 14th Amendment did not require the end of slavery; rather, slavery required the 14th Amendment. The 14th Amendment only repeats what

God already said, in slightly different words.

> Exodus 12:49 One law shall be to him that is homeborn, and unto the stranger that sojourneth among you.
> *See also Lev_24:22; Num_9:14, Num_15:15-16, Num_15:29*

The fact that the end of slavery did not require prior centuries free of slavery proves that the end of darkness does not require that it be already ended but only that a Light be held high, and the fact that abortion is far more deadly than slavery proves babies, as much if not more than blacks, were the intended beneficiaries of the healing Light of the 14th Amendment and the Scriptures it summarizes. That Light from Heaven made irrelevant the length of time darkness hung over America. Murder could not continue no matter how many centuries it had reigned.

8 More about **"To say that the test of equal protection should be the 'legal' rather than the biological relationship is to avoid the issue."**

The "equal protection" clause was created to give equal rights to the people least valued by society, beginning with slaves, but not ending with slaves.

Professor Nathan Schluetter said President Lincoln warned in "his First Inaugural Address against deferring decisions of policy 'upon vital questions affecting the whole people' to the Supreme Court, and thus resigning the power of self-government.

"Of course, Lincoln was referring to the ignominious Dred Scott decision in which the Court ruled not only that blacks were ineligible for national citizenship and thus had no legal access to federal courts, but also that slaves constituted property protected by the Fifth Amendment due process clause against congressional prohibition of slavery in the territories. It was in part in order to overturn this ruling that Lincoln pressed for, Congress passed, and the nation ratified the Thirteenth and Fourteenth Amendments to the Constitution extending due process and **equal protection rights to all persons** under United States jurisdiction.

"The simple syllogism for my argument can be stated as follows. The word 'person' in the due process and equal protection clauses of the Fourteenth Amendment includes all human beings. Unborn children are human beings."

Unfortunately even many prolife lawyers accept *Roe's* Principle from Hell that fundamental rights are only those "deeply rooted in America's laws and traditions", so because the unborn had never been treated by law as fully human, we should not treat them as fully human today. By that absurd logic, slaves should never have been freed, since slaves had never been treated by southern law as fully human.

Genesis 3:17 And unto Adam he said, Because thou hast hearkened unto the voice of thy wife, and hast eaten of the tree, of which I commanded thee, saying, Thou shalt not eat of it: cursed is the ground for THY sake; in sorrow [Hebrew עִצָּבוֹן "labor, or pain"] **shalt thou eat of it all the days of thy life; 18 Thorns also and thistles shall it bring forth to thee; and thou shalt eat the herb of the field; 19 In the sweat of thy face shalt thou eat bread, till thou return unto the ground; for out of it wast thou taken: for dust thou art, and unto dust shalt thou return.**

Notice that *Adam* was not cursed. Nor are *we* cursed today through Adam's sin. The *ground* was cursed, *for Adam's benefit. And for ours.*

A life without activity is not life. Adam wouldn't work as God directed, so God created hunger to force Adam to at least do *some* hard work.

Activity is the essence of what the word "life" means. Inactive, inert, dead, mean nearly the same.

Jesus came that we might have "life more abundantly". That means not mere "work", but *hard* work, is a key to life full of meaning. Which is why difficulties and obstacles force adventure back into lives grown too routine, stretching our capacity.

Finding #9: SCOTUS never denied that state personhood laws are strong evidence in an abortion case.

SCOTUS never said Personhood Laws are impotent. SCOTUS only said a personhood law by itself, without penalties, (that is, a law that says 'babies are people, but we won't stop their murderers') doesn't yet restrict abortion, so it can't yet generate a case.

Webster v. Reproductive Health Services 492 U.S. 490 (1989) did not say Missouri's personhood law had no power to topple *Roe*, but only "...until... courts have applied the [personhood] preamble to restrict appellees' [abortionists] activities in some concrete way, it is inappropriate for federal courts to address its meaning." - *Webster*, p. 491. (First paragraph)[1]

Similarly, *Dobbs v. Jackson* did not address whether Mississippi's clear "personhood" declarations called for outlawing abortion in every state, because those declarations were not

applied to any challenge to murdering those persons before 20 weeks, and because in oral arguments, Mississippi's AG explicitly *denied* he was asking SCOTUS to outlaw abortion. The issue of whether babies are people who should never be murdered, at any age, was not before the court.[2]

Far from treating a single state personhood law as impotent, SCOTUS said that were it coupled with a clear penalty, that "will be time enough to reexamine Roe, and to do so carefully". Concurrence by O'Conner, Id. at 526. How much more the uncontradicted findings of 38 states are enough to outlaw abortion as thoroughly as slavery! 14/216 words

1 More about **"It is inappropriate for federal courts to address [the] meaning (of a law that says 'babies are people, but we won't stop their murderers')."**

15 pages later the principle was repeated:

"It will be time enough for federal courts to address the meaning of the [Personhood statement] should it be applied to restrict the activites of [the abortionists] in some concrete way." Id at 506.

2 More about **"The issue of whether babies are people who should never be murdered, at any age, was not before the court."**

When Justice Kavanaugh asked the AG, "And to be clear, you're not arguing that the Court somehow has the authority to itself prohibit abortion or that this Court has the authority to order the states to prohibit abortion as I understand it, correct?" the AG answered, "Correct, Your Honor."

Ecclesiastes 2:22 For what hath man of all his labour, and of the vexation of his heart, wherein he hath laboured under the sun? 23 For all his days are sorrows, and his travail grief; yea, his heart taketh not rest in the night. This is also vanity. 24 There is nothing better for a man, than that he should eat and drink, and that he should make his soul enjoy good in his labour. This also I saw, that it was from the hand of God.

Hard work, the purpose of Life?! The "curse" of the ground for Adam's sake (benefit) was for the purpose of directing him to the very purpose of life? To satisfy physical needs, God forced him to satisfy at least somewhat the needs of his soul?

"Vexation (of his heart)" means "what feeds us? What sustains us?" It's from a word about "grazing". It is translated "desire, longing, weight of care." Verse 22 asks, "what is the purpose of life?" Verse 23 adds, "...that shines through the world's darkness?"

"Vanity" is a dark translation of the word הֶבֶל

literally meaning “breath”. Which is a translation of πνεῦμα (pneuma) in the New Testament, along with “wind” and “spirit”. “All is vanity”, Ecclesiastes 1:2, (KJV version) sounds depressing, but “all is breath” presumes a Breather, God: the substance of the universe is “breath/spirit”. See Colossians 1:17 And he is before all things, and by him all things consist.

Finding #10: “Exceptions” do NOT Mitigate or Undermine Personhood Assertions .

Evidence of Life is not disproved by an “exception...for the purpose of saving the life of the mother” and/or by not charging the mother with being a “principal or an accomplice” to murder, as *Roe’s* footnote 54 was generally interpreted, and as many prolifers still believe.[1]

Although the ideal of law is equal protection of all humans, human law is as imperfect as humans. The very legal, political, and Biblical necessity of “innocent until proved guilty” illustrates the inability of human courts to equally protect every human, without that inability proving crime victims are not fully human!

Practical reasons to prosecute abortionists but not moms are (1) to get moms to testify against abortionists, and (2) the greater ease for juries of imputing culpability to adult doctors than to mothers suffering varying degrees

of youth, deception (by culture, schools, pastors, and judges) and pressure (by family and fathers).

Legal and moral reasons for a "life of the mother" exception are that (1) while babies have a fundamental right to live, so do mothers; and (2) while we are inspired by people who give their lives for others, we can't require them to by law. Even our Good Samaritan laws, requiring people at accident scenes to help, are sparse and inconsistent.

It would be hypocritical to charge aborting moms with being accessories to murder, without first charging judges. The degree to which laws fail to give "equal protection" to all humans is no evidence of the degree to which people are not humans. Such a legal theory is absurd, unknown outside Footnote 54,[2] cannot be taken seriously, and certainly merits no attention as it faults laws for being no better than is humanly possible.

10/293 words

1 More about "'Exceptions' do NOT Mitigate or Undermine Personhood Assertions."

Although Roe is officially "overruled" by Dobbs v. Jackson, not every lie in it has been dislodged from prolife legal thinking, and there are still prolife lawmakers who are afraid to support any bill that fails to save every baby, believing that will be taken by baby killers as evidence that prolifers don't really believe babies are fully human. This Finding is for them.

Another example of a Roe myth that still lives is the idea that babies aren't real people because centuries ago, the penalty for murdering your baby was only serious after "quickening" (when mom

can feel baby kicking). It's not a myth exclusive to Roe. It is part of the doctrine of "Substantive Due Process", an intimidating phrase used to empower courts to invent "rights" like the right to murder your baby, if they can pretend the right is "well rooted in history".

All that is explained and criticized elsewhere in this document. See *"**How SCOTUS morphed the Constitution's end of racial tyranny into its own tool of judicial tyranny in only five years** // 'Substantive Due Process': how SCOTUS turned the Constitution's Authority to Define Rights, and Congress' 14th Amendment Authority to Enforce Rights, into its own authority to reclassify abominations as 'rights'".* But as to whether it was even true that babies were historically not so human before quickening, Foundation for Moral Law explains:

> Quickening is different from viability; quickening is the time when the mother first feels the child move within her. One could be convicted of homicide for the killing of an unborn child, only if quickening had already taken place.
>
> But this common law rule did not mean that the child became a person only at quickening or that there was a right to abortion before quickening. Rather, it was a procedural matter of proof. **One can be guilty of homicide only if the homicide victim was alive at the time of the alleged killing, and at that stage in the development of the common law, medical science had no way of proving the child was alive until the mother had felt the child move within her**. (Foundation for Moral Law, Lutherans for Life, https://storage.googleapis.com/msgsndr/JTZoYWv3fly6h Femb8mU/media/63b73813b7386028645df690.pdf)

☡ More about **"Such a legal theory is...unknown outside Footnote 54"**

Unless you count the "Substantive Due Process" nonsense that courts should call mass murder of a particular class of people a "constitutional right" if it is "deeply rooted in American tradition". Which *implies* dehumanization of the class of people so targeted. Yet not even that foolish analysis goes quite so far as to claim to prove said class is *not* human. Although lower courts have ruled that the legality of mass murder makes the humanity of those murdered constitutionally irrelevant.

Are you following this reasoning? It took me years to wind my

way through it this far.

Luke 12:22 ...Take no thought for your life, what ye shall eat; neither for the body, what ye shall put on. 23 The life is more than meat, and the body *is more* than raiment. 24 Consider the ravens: for they neither sow nor reap; which neither have storehouse nor barn; and God feedeth them: how much more are ye better than the fowls? 25 And which of you with taking thought can add to his stature one cubit? [or, "one hour to your life span"] **26 If ye then be not able to do that thing which is least, why take ye thought for the rest? 27 Consider the lilies how they grow: they toil not, they spin not; and yet I say unto you, that Solomon in all his glory was not arrayed like one of these. 28 If then God so clothe the grass, which is to day in the field, and to morrow is cast into the oven; how much**

more *will he clothe* you, O ye of little faith? **29 And seek not ye what ye shall eat, or what ye shall drink, neither be ye of doubtful mind. 30 For all these things do the nations of the world seek after: and** your Father knoweth that ye have need of these things. 31 But rather seek ye the kingdom of God; and all these things shall be added unto you. 32 Fear not, little flock; for it is your Father's good pleasure to give you the kingdom. **33 Sell that ye have, and give alms; provide yourselves bags which wax not old, a treasure in the heavens that faileth not, where no thief approacheth, neither moth corrupteth. 34 For where your treasure is, there will your heart be also.**

The ground was cursed for the benefit of Adam. The ground was changed in a way that forced him to work very hard or not eat.

There was work before: to take care of the Garden of Eden, Genesis 2:15. But Adam and Eve liked Satan's idea of taking a shortcut. "You don't need God telling you what to do. Be your own god, deciding for yourself what to do."

But shortcuts around Full Life lead straight to empty life. Shortcuts around Paradise lead straight to Hell. For those who will not use their leisure to meditate on God's instructions

which are only for our benefit, not His, Job 35:1-8, leisure is a curse. Inactivity is a curse, Proverbs 19:15. Physical comfort is a curse, Luke 12:19, Amos 6:1, Psalm 25;12-13. That's what makes it especially hard for rich people, who can afford more leisure, to enter the Kingdom of God. Matthew 19:24, Mark 10:25, Luke 18:25.

So to save Adam and Eve from the pure Hell of an aimless, pointless, empty existence, God treats men like the animals upon whose level they operate: God makes a few bites of food a "reward" for doing some little task, the way we give a dog a biscuit for doing a trick. But God offers more than an animal existence for any who want it.

Sin has very real consequences. Every sin shuts off opportunities, many of which can never be recovered.

But to the extent you follow God now, He offers new, different opportunities. Your life can still be full. And God will still take care of you.

See what Luke 12 promises, which is also written in Matthew 6. For those willing to obey the rules designed for their benefit, they no longer have to toil – sweat-covered, too busy to get in too much trouble – to eat.

Think what that means! Believe and obey, and the "ground" is no longer "cursed"! The "curse" Adam brought into the world does not touch us! It is only our *own* sin which drives us outside Paradise, not Adam's. To the extent we "seek first the Kingdom of Heaven", "all these other things" which God knows we need "will be added unto you"!

This doesn't mean there is no work to do. In fact, a little hard work can prove a welcome break from intense prayer and concentrating on solutions for others. But it does mean we can make serving others with Love and Truth our first priority even when that leaves us wondering how we will eat, and our meals will come to us – enough to enable us to continue doing God's Will. Our health, our days on earth, our finances, all will be sufficient to enable us to do God's Will, which again is for our own fulfillment, not God's.

Genesis 3: the *ground* was cursed, for *our* benefit, to make us work hard, which gives meaning to life, Proverbs 2:24.

In Luke 12, repeated in Matthew 6, we learn *what kind* of work is most fulfilling; and we learn that if we will work hard as God instructs, which Adam didn't, the curse is lifted: God will meet our physical needs without us worrying about them.

The faithfulness of this promise is proved by many testimonies of missionaries and others, and in my life.

Part 4: Conclusions

The warnings of these Findings of Facts are addressed to judges, but meant for everyone. They are for the purpose of saving the bodies of babies, and the souls of adults.

Prolifers, do your appeals to lawmakers, courts, and the public, to turn them away from infanticide, include evidence at least as compelling as what you read here? The following warning from God tells us to use the most compelling messaging we can, because if we self-censor to be more "polite", "respectable", or "politically correct", we *cannot* be as persuasive, which may make the difference between whether they continue *their* infanticide, for which God will hold *us* accountable:

Ezekiel 3:17 Son of man, I have made thee a watchman unto the house of Israel: therefore hear the word at my mouth, and give them warning from me. 18 **When I say unto the wicked, Thou shalt surely die; and thou givest him not warning, nor speakest to warn the wicked from his wicked way, to save his life; the same wicked man shall die in his iniquity; but his blood will I require at thine hand.** 19 Yet if thou warn the wicked, and he turn not from his wickedness, nor from his wicked way, he shall die in his iniquity; but thou hast delivered thy soul. 20 Again, When a righteous man doth turn from his righteousness, and commit iniquity, and I lay a

stumblingblock before him, he shall die: because thou hast not given him warning, he shall die in his sin, and his righteousness which he hath done shall not be remembered; but his blood will I require at *thine* hand. 21 Nevertheless if thou warn the righteous man, that the righteous sin not, and he doth not sin, he shall surely live, because he is warned; also thou hast delivered thy soul.

Finding #11: The 14th Amendment requires this state, as every state, to thoroughly outlaw abortion. Restrictions of abortions for the purpose of saving mothers cannot be reviewed by strict scrutiny,[1] even though the safety of mothers is a fundamental right, because the safety of their babies is an equally fundamental right. Legislatures can best delineate the most life-saving balance of harms. [2]

The indecision of judges over whether babies of humans are humans does not neutralize the consensus of fact finders that babies are fully "human persons" – an abstention does not cancel an "aye".

That consensus makes abortion legally recognizable as killing innocent human beings, which is legally recognizable as murder, which was never constitutionally protected or legal, but is what even *Roe* correctly said "of course" requires abortion's legality to end.

No judge can squarely address this

evidence and keep abortion legal because the 14th Amendment doesn't let any state legalize the tyranny of any class of humans over any other.[3] It made irrelevant whether their destroyers "rely" on destroying them.[4] The only constitutional way to keep baby murder legal would be to repeal the 14th Amendment, returning to states the power of majorities to tyrannize minorities. Of course, that would make slavery legal again.

The prohibition of tyranny over any class of humans by any other has greater authority than that of the Constitution: it is also the command of the Declaration, which lays out the purpose of the Constitution, and rests its own authority on the revelation of God[5] in the Bible.[6] Without God it is impossible to understand fundamental rights,[7] as courts have so magnificently demonstrated by so often confusing abominations for rights, decimating those whom Jesus said "forbid them not to come unto Me", denying that He created them, murdering 17% of them, sodomizing 20% of the survivors, and censoring 100% of His teachings in schools.[8] That began with the development of the principles of "Substantive Due Process" in *United States v. Cruikshank* 92 U. S. 542 (1876), which were applied in that case to acquit a white Democrat mililtia of murdering "as many as 165" black Republicans and

burning down the courthouse they were defending.[9]

1 More about "Restrictions of abortions to save mothers cannot be reviewed by strict scrutiny"

The North Dakota Supreme Court on March 16, 2023 shot down a "trigger law" (passed in 2007, whose outlawing of abortion was set to be "triggered" by SCOTUS' repeal of *Roe*) because doctors worried that they could not kill babies to save their mothers without uncertain consequences in court. Legislatures always have a moral responsibility to minimize legal uncertainties, (with "sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement", *Kolender v. Lawson,* 461 U.S. 352, 357 (1983)

But courts also have a moral responsibility to not add to any unavoidable uncertainties. (Laws should not be applied or interpreted in a way that produces an "absurd result" when a rational alternative is possible. *Pacific Employers Insurance Co. v. Industrial Accident Commission,* 306 U.S. 493 (1939)

The North Dakota court confused matters by reviewing the law by Strict Scrutiny, (a restriction of a fundamental right must be the least restriction possible that is necessary to achieve a compelling government interest), by calling the safety of mothers a fundamental right while ignoring the fundamental right of babies to life. See the North Dakota ruling at https://reproductiverights.org/wp-content/uploads/2023/03/ North-Dakota-Supreme-Court-Order-PI.pdf See highlights of the ruling with my analysis at http://savetheworld.saltshaker.us/wiki/ND_Court_Gives_Moms_Fundamental_ Right_to_Save_Themselves_from_their_Babies

In Iowa, an amicus brief of "Non-Iowa Abortion Care Providers" submitted in the review of an injunction against Iowa's 2018 Heartbeat Law made the same argument, and added testimonies of doctors in neighboring states with similarly allegedly vague "life of the mother" exceptions. They moaned about leaving their patients with developing emergencies to go out into the hall to call lawyers to see if they could save their patients without going to jail. See the brief at www.iowacourts.gov/courtcases/18325/briefs/ 5800/embedBrief Because these testimonies were submitted in an amicus rather than a trial court, they could not be cross examined to establish whether their cases were true

"life of the mother" situations, not to mention whether their medical credentials qualify them to provide better emergency care than just abortion, and whether their medical records are without scandal and fraud.

When the Iowa Supreme Court for the ?th time killed Iowa's Heartbeat Law June 16, 2023, (with a tie vote that left the district court ruling standing) the "life of the mother" exception was not mentioned. But neither was the fact mentioned that babies of people are people with a constitutionally "protected" right to live. In any Court of Law or of Public Opinion, for as long as the fundamental right of babies to live is thought not worth establishing, the fundamental right of mothers to live will outweigh any "*state* interest in preserving life". There will be no balance, no equal right of both to live.

If the Court ever reaches the merits of a law saving the lives of babies, it will be the prayer of babies that Iowa lawmakers will make it about, not some ephemeral "state interest", but about babies' God-given, "unalienable" right to live.

2 More about **"Legislatures can best delineate the most life-saving balance of harms."**

"Legislatures are equipped to deliberate about and secure the rights of all persons as they identify and specify the boundaries between rights....

"In many respects, legislatures are better equipped for this task than courts, whose job is to secure the rights of the litigants who happen to appear in any case or controversy. The job of a court is to specify a right in a legal judgment resolving a dispute between two parties. To generalize that particular judgment, to make that right universal and absolute for all persons, carries the risk that the tribunal will unintentionally invite infringement of the rights of persons who are not parties to the litigation. Significantly, **most constitutional abortion cases proceed without any involvement of the persons who are most interested in, and affected by, the outcome:** expectant mothers, fathers, grandparents, physicians and other health care professionals who are called to deal with the fallout of abortions, and, critically, unborn human beings. **By contrast, legislatures hear evidence and find facts about the rights of *all* interested persons**

"Furthermore, a lawmaker must fashion remedies and sanctions for rights infringements that are commensurate and responsive to the

particular wrong. Because not all persons who contribute to a person's death are equally culpable, legislatures justly distinguish between them. The sanction for reckless acts that cause death need not be as severe as the sanction for intentional homicide. Legislatures also reasonably take into account the circumstances of the person whose life is lost. For example, remedies for wrongful death may take into account a person's stage of development and relationship to any dependents.

"....For example, the right to life remains inviolable and absolute though a legislature may choose to sanction those who are most culpable for its deprivation and not others

"Similarly, state legislatures have long recognized that abortionists are the true, culpable parties in an abortion. Mothers are often victims of coercion. And mothers suffer the consequences of the abortion procedure itself. For these and other reasons, legislatures may choose not to impose legal sanctions on them, notwithstanding that their unborn children have a right to live.

"The Roe Court failed to understand this. The Court looked to state laws that impose criminal sanctions on abortionists, rather than on the mothers themselves, and then erroneously inferred that the law is indifferent to the lives of the unborn. Roe, 410 U.S. at 157 **n.54. ..."**

(From the amicus brief filed in *Dobbs v. Jackson* by 396 State Legislators from 41 States - www.supremecourt.gov/DocketPDF/19/19-1392/185121/20210728125120809_Dobbs Amici brief_State Legislators_07272021.pdf)

☙ More about **"the 14th Amendment doesn't let *any* state legalize the tyranny of any class of humans over any other"**

Dobbs went to a lot of trouble to show that the right to murder your own baby is not "deeply rooted in this Nation's history and tradition" so therefore the Constitution doesn't protect it. Indeed it does not, but not for that reason.

The 14th Amendment demonstrated the irrelevance of "deeply rooted in history" by its creation for the purpose of ending slavery, an institution more "deeply rooted in" the *whole world's* "history" than almost any other. The reason conservatives like precedents from America's first century is because they were closer to the Bible and often quoted the Bible for its authority. Indeed, that is a good reason – and the only reason slavery ended. But the Bible is a safer subject of

our admiration than the history of Bible believers.

Here's how Professor Schluetter expressed the idea that what tells us whether to protect babies is not how much our ancestors protected babies but whether babies are real people:

> "Notice that the minor premise of the syllogism above [whether the word 'persons' in the 14th Amendment includes unborn babies] is only marginally contingent upon historical analysis. **The primary issue is ontological, not historical....**[the actual nature of babies, not how others used to treat them]
>
> "In other words, it doesn't ultimately matter what past people thought about when human life begins, so long as they agreed-as they did-that at whatever point it begins, this is the point at which the protective powers of the state must be introduced. They did not have enough access to the scientific and biological facts of human reproduction and embryology to know for certain when life begins. But in a time of 4D ultrasound technology, when infants can be operated on while still in the womb, there is no room for dispute about the status of the fetus."

Actually it doesn't matter, either, if our ancestors "agreed that at whatever point life begins, the protective powers of the state must be introduced." Nor does it matter if the Amendment authors *wanted* to protect all humans. In fact, *it doesn't matter if there is a 14th Amendment.* If law is not equal upon its operation on all humans, which is the very definition of the word "law" as explained by Samuel Rutherford's "Lex Rex" and Blackstone, and adopted by America's founders, to that extent there is, by definition, no "rule of law", no restraint upon the "strong" to not tyrannize the "weak".

Had a time traveler from today told those senators who authored the 14th Amendment about Roe v Wade, and the need to clarify that unborn babies are "persons" or their descendants wouldn't be able to figure that out, they would have answered, "you are telling us our great great great grandchildren will flock to pay baby killers to murder their very own babies if we don't spell out that babies of people are people, which every idiot knows? But should our descendants actually become that bloodthirsty, you really think a word in the Constitution will stop them? Bosh!" [People in 1868 said "Bosh!" a lot.] Then they will throw the time traveler out of the room.

It is mind boggling that Dobbs never once mentioned *the right of a baby to live* "in this Nation's history". The right of babies to live

was certainly "deeply rooted in history", as the same history in *Dobbs* makes clear.

> *Roe*...attempted...to locate an abortion right in history. The attempt was seriously flawed. ... **acceptance of abortion is not in any sense deeply rooted in the Nation's history and traditions. The opposite is true: it is the *prohibition* of abortion that has deep roots in English and American history**....An exhaustive study...concludes that '[t]he tradition of treating abortion as a crime was unbroken through nearly 800 years of English and American history until the 'reform' movement of the later twentieth century.' Joseph W. Dellapenna, *Dispelling the Myths of Abortion History*....
>
> [Legalism caused] the tragedy that is the common denominator in these cases: the intentional destruction, on an unprecedented scale, of the most innocent and defenseless of the human family. In the truest sense, they are our family, our brothers and sisters. Like all members of the human family, they should be treasured and loved. Nothing in the Constitution requires states to stand idly by while their lives are deliberately taken. The Declaration of Independence places the right to life first in the list of inalienable rights. The Fifth and Fourteenth Amendments list the right to life first among those rights of which the government cannot deprive a person without due process of law.
>
> Thomas Jefferson's March 31, 1809 letter to the Republican Citizens of Washington County, Maryland, stated: "The care of human life and happiness, and not their destruction, is the first and only legitimate object of good government." *THE WRITINGS OF THOMAS JEFFERSON* 165 (H.A. Washington, ed.) (1871). xii (2006) (From the amicus of U.S. Conference of Catholic Bishops and Other Religious Organizations, submitted in Dobbs. http://www.supremecourt.gov/DocketPDF/19/19-1392/185030/20210727130348783_13-1932.Dobbs.final.pdf

The amicus of the Claremont Institute's Center for Constitutional Jurisprudence agrees:

> The Due Process Clause of the Fourteenth Amendment protects against deprivation "life, liberty, or

> property." In the abortion rights cases, this Court has focused on "liberty." [of moms.] The real issue, however, is life. [of babes.] Life is a natural right endowed by our Creator and is the first unalienable right recognized in the Declaration of Independence. ...The duty of government to protect life is at the center of the nation's first legal document. [www.supremecourt.gov/DocketPDF/ 19/19-1392/185038/20210727131748801_ 19-1392 tsac CCJ.pdf]

But again, that's not why the 14th Amendment protects it. The 14th Amendment protects the right of babies to live because the 14th Amendment doesn't let any state legalize the tyranny of any class of humans over any other. The 14th Amendment put a "full stop" to the exceptionally strange and frankly stupid idea that a long history of tyranny constitutionally requires us to let tyranny continue till Jesus comes.

> "Amicus aids the Court in recognizing that **unenumerated fundamental rights elevated to a constitutional status by the Court because they are "implicit," "inherent" or "rooted in history" have no basis in the law of nature, and no textual basis in Article III, or in the power of judicial review."** That bold rejection of just about every tool of SCOTUS dominance over America was made by the Lonang Institute in its amicus in Dobbs. www.supremecourt.gov/DocketPDF/ 19/19-1392/185037/20210727131024868_19-1392%20tsac%20Lonang%20Institute.pdf

More about **"It made irrelevant whether baby killers 'rely' on killing babies"**

Casey (1992) came up with a new excuse for infanticide: moms had come to "rely" on it. They had "reliance interests". But slave owners had come to "rely" on slavery too, a lot more! For a LOT longer! Entire states relied on slavery so much they couldn't imagine existence without it! Yet the 14th Amendment had no mercy for them. Nor did the Northern army.

"Reliance interests" was a concept twisted out of its context of contracts, where the concept made sense. People who sign contracts "rely" on the other party doing what they agreed to do. The concept doesn't belong where someone has come to "rely" on committing crimes against others who never agreed to be murdered.

5 More about **"the Declaration lays out the purpose of the Constitution, and rests its own authority on the revelation of God"**

The Revelation of God upon which the Declaration of Independence rests its authority: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness."

The purpose of government and its courts which our Constitution was designed to serve: "to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed. ...whenever any form of government becomes destructive to these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness."

6 More about **"the Declaration...rests its own authority on the revelation of God *in the Bible*"**

"Nature's God", the phrase in the Declaration of Independence of 1776, was a clear, unambiguous reference to God as revealed by the Bible. The first clue is that "God" is singular, while every nonChristian major religion except Islam worships "gods". And there were no Moslems among the Declaration's signers.

"When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which **the Laws of Nature and of Nature's God** entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation."

Bill Fortenberry, a Birmingham Christian "philosopher and historian" whose work "has been cited in several legal journals", writes "Nearly all of the modern historians who have written about this phrase have accused Jefferson and the other signers of the Declaration of abandoning the God of the Bible and erecting a more deistic god of nature in His place." The attempt to tie the definition of the phrase to Jefferson's personal ambiguous faith statements is a study in

irrelevance, since if the Declaration's signers understood the phrase to differ from their own theology, they wouldn't have signed it.

Here Fortenberry explains how we can be sure Jefferson's personal understanding of the phrase was, indeed, the Bible, the Word of God:

> Thomas Jefferson was a student of Lord Bolingbroke. He first began studying Bolingbroke's writings at the age of fourteen, and he read them again at the age of twenty-three as he was preparing for a career as a lawyer. Jefferson's Literary Commonplace Book contains more quotations from Bolingbroke than from any other author, and I do not know of a single historian who has not given Bolingbroke the credit for Jefferson's famous phrase regarding "the Laws of Nature and of Nature's God." What these scholars keep hidden is the fact that Lord Bolingbroke provided a very specific definition for this phrase.
>
> In a renowned letter to Alexander Pope, Lord Bolingbroke wrote the following words which were to become the basis for Jefferson's opening paragraph of the Declaration of Independence:
>
> "You will find that it is the modest, not the presumptuous enquirer, who makes a real, and safe progress in the discovery of divine truths. One follows nature, and nature's God; that is, he follows God in his works, and in his word."
>
> Here we find a definition from the very individual that all scholars recognize as the source of Jefferson's phrase. According to Lord Bolingbroke, the law of nature's God is the Law which is found in God's Word. This was the definition which was intended by Jefferson, and this was the manner in which his words were understood by our forefathers. The law of nature's God upon which our nation was founded is nothing less than the Bible itself. (http://www.increasinglearning.com/blog/law-of-natures-god)

"Jefferson's phrase 'the laws of nature and of nature's God,' was clearly defined by Blackstone's Commentaries as meaning the unwritten law of God in creation and the revealed law of God in the Bible" (according to Jerry Newcombe, http://doubtingthomasbook.com/the-laws-of-nature-and-of-natures-god/)

"Louisiana State University professor Ellis Sandoz writes that Jefferson's language '. . .harmonizes with the Christian religious and

Whig political consensus that prevailed in the country at the time; . . . (and with) traditional Christian natural law and rights going back to Aquinas…' Similar language was used by the Protestant John Calvin, John Locke and others. See Sandoz, A Government of Laws, pp. 190-191." (Newcombe)

Even the phrase "the laws of nature" was not understood then as now, as physical forces in our material universe, but "Jefferson defined the law of nature in 1793 as: 'the moral Law to which man has been subjected by his creator,' Opinion on the Treaties with France, 28 April 1793." (Newcombe)

Other Declaration signers were Christians, not activists of other faiths, who when writing "God" meant "as revealed in the Bible": "Other references to God such as 'endowed by their Creator' and 'the Supreme Judge' and 'the protection of divine providence' were added during the collaborative process by others in Congress before the final document was adopted." (Newcombe)

History professor David Voelker says Jefferson didn't believe the Bible is a revelation of God. Professor of Humanities and History, University of Wisconsin-Green Bay, http://davidjvoelker.com/ he concludes, without offering supporting Jefferson quotes: "Although he supported the moral teachings of Jesus, Jefferson believed in a creator similar to the God of deism. In the tradition of deism, Jefferson based his God on reason and rejected revealed religion."
http://historytools.davidjvoelker.com/docs/Natures-God.html

But Newcombe offers a Jefferson quote inconsistent with Deism's idea that God doesn't get involved in current events: "To Richard Henry Lee, Jefferson reported on the military front: 'Our camps recruit slowly, amazing slowly. God knows in what it will end. The finger of providence has as yet saved us by retarding the arrival of Ld. Howe's recruits.' "

Concerning the "Deism" label, Voelker wrote: "Deism was not actually a formal religion, but rather was a label used loosely to describe certain religious views. According to the Oxford English Dictionary, the word deist was used negatively during Jefferson's lifetime. The label was often applied to freethinkers like Jefferson as a slander rather than as a precise description."

Newcombe is a joint author of a book of the latest compilation of Jefferson's letters and other writings, which challenge the narrative that Jefferson didn't take the Bible seriously. The book's synopsis, at http://doubtingthomasbook.com/marks-blog: "Drawing from about 1100 religious

letters and papers of Thomas Jefferson (of which over 100 in recent months have been printed for the first time ever – some in this volume itself), this book identifies over 200 religious leaders or groups that Thomas Jefferson either worshiped with, aided financially or corresponded with. While not denying the unorthodox writings of Jefferson late in life, the context of the vast majority of his religious correspondence and actions, and the unique religious culture of Central Virginia, show a much more nuanced picture that challenges both secular and religious scholars to reassess Jefferson's modern image." (Contact form: http://doubtingthomasbook.com/praise-for-doubting-thomas)

"Jefferson's Bible" is his condensation of the Four Gospels (Matthew, Mark, Luke, John) for distribution among Native Americans to inspire good behavior. It omits Jesus' miracles, which is cited by many as evidence that Jefferson didn't believe in miracles.

But even if such a "hands off" God were Jefferson's concept of "nature's God", and even if the other Declaration signers accepted such a notion, that would be irrelevant to the Signers' reliance on the Bible as an inspired guide to good behavior, and to understanding the Unalienable Rights with which "all men" are "endowed" by our "Creator".

General Biblical inspiration of American Freedom.

In 1954, Supreme Court Chief Justice Earl Warren: "I believe the entire Bill of Rights came into being because of the knowledge our forefathers had of the Bible and their belief in it: freedom of belief, of expression, of assembly, of petition, the dignity of the individual, the sanctity of the home, equal justice under law, and the reservation of powers to the people." Earl Warren, quoted in Jim Nelson Black, *When Nations Die*: *Ten Warning Signs of a Culture in Crisis* (Wheaton, IL: Tyndale House Publishers, 1994) p. 253.

The Foundation for Moral Law and Lutherans for Life point out in their joint amicus in *Dobbs v. Jackson:*

> Much of our Western legal tradition has been shaped by the Bible. On October 4, 1982, Congress passed Public Law 97-280, declaring 1983 the "Year of the Bible," and the President signed the bill into law. The opening clause of the bill is: "Whereas **Biblical teachings inspired concepts of civil government that are contained in our Declaration of Independence and the Constitution of the United States;** . . ."

Joshua Berman, Senior Editor at Bar-Ilan University, in

his 2008 book *Created Equal: How the Bible Broke with Ancient Political Thought*, contends that the Pentateuch [*first five books of the Bible: Genesis, Exodus, Leviticus, Numbers, Deuteronomy*] is the world's first model of a society in which politics and economics embrace egalitarian [equal rights for all] ideals. Berman states flatly: **If there was one truth the ancients** [who rejected the religion of the Bible] **held to be self-evident it was that all men were *not* created equal.** If we maintain today that, in fact, they are endowed by their Creator with certain inalienable rights, then it is because **we have inherited as part of our cultural heritage notions of equality that were deeply entrenched in the ancient passages of the Pentateuch**.

(Footnote: Joshua Berman, *Created Equal: How the Bible Broke with Ancient Political Thought* (Oxford 2008) 175, See also John Marshall Gest, *The Influence of Biblical Texts Upon English Law,* an address delivered before the Phi Beta Kappa and Sigma xi Societies of the University of Pennsylvania June 14, 1910, https://scholarship.law.upenn.edu quoting Sir Francis Bacon: "The law of England is not taken out of Amadis de Gaul, nor the Book of Palmerin, but out of the Scripture, of the laws of the Romans and the Grecians."

𝕿 More about **"Without God it is impossible to understand fundamental rights"**

The Bible is so much the foundation of American law, and the definition of fundamental rights, that fundamental rights cannot be understood where God is censored, as SCOTUS' has so magnificently demonstrated in a wide range of SCOTUS protections of Bible-defined abominations.

From the amicus brief by LONANG Institute filed in *Dobbs v. Jackson:*

> **No understanding of state power is complete without consideration of the Declaration. The Declaration grounded civil power itself on the "laws of nature and of nature's God."** ..."We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.–That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed".
>
> Even if this Court's search for new fundamental un-enumerated substantive due process rights was constitutionally

legitimate, it has neglected to look carefully at the "laws of nature and of nature's God" as a source of those rights. **Any legitimate search even for rights "deeply rooted" in American history and tradition would consider unalienable rights granted by the Creator as asserted in such a quintessential founding American document**. In other words, the first place to look for any rights of the people would be to examine those rights granted by the Creator, not any purported rights invented by people. **And if the Creator has not deemed it necessary or advisable to confer a particular right, then the logical conclusion would be that such a right does not exist.**

Nevertheless the state governments' purpose is to secure these natural and unalienable rights and as we have seen, any un-enumerated rights are reserved to the People (not the judicial branch) to find, identify, and assert, and their States to enact. The People created their state governments for this purpose and their national government for a much more limited purpose. The People did not establish a national government with a judicial branch given any power to make law or discover un-enumerated rights. ...

The States in the union have all power to do all "Acts and Things which Independent States may of right do." The Constitution of a state may further limit this power. The United States Constitution including the fourteenth amendment also limits the power of States. But **neither the framers nor text of that amendment contain any *substantive due process* limitation** on a state's police power. [http://www.supremecourt.gov/DocketPDF/19/19-1392/185037/20210727131024868_19-1392 tsac Lonang Institute.pdf]

We even get our definitions of basic words from the Bible. American culture and law loses its grasp of basic words by its exclusion of the Bible. **The same Bible from which America got the idea that "all men are created equal" tells us who counts as "men": everyone. All humans.** Women, children, believers, pagans, rich, poor, bosses, employees. Everyone.

How could several generations of the earliest Americans be so confused about whether blacks were among the "men...endowed by their creator with...(the)...unalienable right...(to)...Liberty"? And they even publicly honored the Bible and taught from it in public schools!

Now several generations of the latest Americans, excluding the Bible from public discussion, have been confused about whether *their very own babies* have an "unalienable right" to even *live!*

Legal gaslighting has intimidated easily confused Americans into imagining the 14th Amendment doesn't necessarily include "unborn babies" in its protection of "all persons". Never mind that whatever the 14th Amendment means, its authority is secondary to the judgment of God which He lets fall on civilizations which murder their own babies. No-ho, let's not risk our "credibility" by resorting to the pleadings of God! Our highest authority is the 14th Amendment, and we can't even figure out if "all persons" means "all people"!!!

Finding #8, Footnote #3, gives the definition of "man" in Webster's 1828 dictionary, where we learn that our ancestors learned the correct meanings of Freedom-supporting basic words from the Bible. Webster's definition includes several Bible quotes.

Here are a few more, documenting that "all men are created equal" is indeed firmly established in the Bible, which I challenge anyone to find in any major religion or philosophy not influenced by the Bible.

Exodus 12:49 One law [equal rights] shall be to him that is homeborn, [a natural born citizen] and unto the stranger [immigrant] that sojourneth [lives] among you. [Even the least appreciated people – even *immigrants* – shall have the same freedom you do.]

Leviticus 24:22 Ye shall have one manner of law, as well for the stranger, as for one of your own country: for I am the LORD your God. (See also Numbers 9:14, 15:15-16, 29)

Galatians 3:28 (ERV) Now, in Christ, it doesn't matter if you are a Jew or a Greek, a slave or free, male or female. You are all the same in Christ Jesus.

Colossians 3:11 Where there is neither Greek nor Jew, circumcision nor uncircumcision, Barbarian, Scythian, bond nor free: but Christ is all, and in all. (See also Galatians 5:6; Romans 1:16, 2:9-10, 3:29-30, 4:11-12, 9:24, 10:12-15; 1 Corinthians 7:19; 12:12-13; Ephesians 2:13-22, 3:5-10, 4:4, 15-16; John 10:16, 11:52, 17:20-21)

Even the word "Freedom" is confusing where the Bible is excluded from the discussion. Without the Bible for its foundation, logic says freedom means license – no need of discipline to achieve greater and nobler goals than instant gratification of desires – lack of restraint from doing harm to others. Unmoored logic defines "freedom

of religion" as freedom *from* morality, from being "offended" by Truth. My freedom requires restraining you from saying whatever I don't like, just as dictators enjoy "freedom" to tyrannize their subjects.

From the Bible we don't find the phrase "freedom of speech", but those who told the Truth freely, no matter the cost, are honored throughout the Bible as our examples of faith. Hebrews 11 lists several.

Conversely, we find those judged by God who censor and persecute Truth tellers. Not even God issues nonsensical, unilateral, self-serving orders, but reasons with people, allowing mere *people* to reason back, and adjusting reality to accommodate reasonable and even semi reasonable prayers.

(*A lowly Canaanite woman's logic changed Jesus' judgment and won His praise, Matthew 15:22-28. God changed His judgment against Israel in response to Moses' reasons, Exodus 32:7-14. Though disgusted with Moses' fear of public speaking, God assigned Aaron do the talking, Exodus 4. God allowed Israel to exchange their political freedom wherein they elected their leaders for a dictatorship, after God warned them but the people still insisted, 1 Samuel 8. God issues zero commands for His own benefit; they are all for ours, Job 35:1-8. God let Hezekiah live another 15 years because Hezekiah pleaded, even though God knew Hezekiah would use those years to reveal state secrets to Babylon and to raise a thoroughly wicked prince, 2 Kings 20:1-21:2. Jesus invites us to be persistent in prayer even when we might be annoying God, Luke 11:5-13, 18:1-8. "Come now, and let us reason together, saith the Lord." Isaiah 1:18.*)

Informed by the Bible, which informed the framers of our freedoms, we understand "Freedom of Speech" to mean freedom to tell the truth and not be prosecuted for it, even when Truth is stated to authorities who can hurt you, who don't want to hear Truth, and who don't like you. We also learn something about human nature from the Bible, about the persecution to be expected from those who love the "darkness" because "their deeds are evil".

John 3:19 And this is the condemnation, that light is come into the world, and men loved darkness rather than light, because their deeds were evil. 20 For every one that doeth evil hateth the light, neither cometh to the light, lest his deeds should be reproved. 21 But he that doeth truth cometh to the light, that his deeds may be made manifest, that they are wrought in God.

So we are not surprised when "freedom of speech" in America proves to be relative. It is a goal, and the most important of goals,

towards which we all need to press each other.

We learn from the Bible the proper role of Freedom of Speech. Treated as an end in itself, it becomes license for fraud and incitement to violence. But rather its goal, its legitimate purpose, is Truth. To the extent speech articulates anything else, it is evil, as many verses tell us, especially in Proverbs and in James 3.

Swimming champion Riley Gaines states in a June 24, 2023 Leadership Institute letter that for saying "things like 'men are men, and men are not women', 'there are only two sexes', 'men have no business being in women's locker rooms and playing in women's sports'", she "spent three hours barricaded in a classroom while leftist college students just outside the door yelled the most obscene things at me" after "a man – wearing a woman's dress – punched me twice."

> A 13-year-old girl and her friend were reportedly called "despicable" by one of their schoolteachers last week after one of them challenged their classmates about "how she identifies as a cat" after a lesson about gender ideology. The 13-year-old girl and her friend are students at Rye College in the United Kingdom.
>
> The students were in their end-of-year lesson on "life education" where they were told they can "be who you want to be and how you identify is up to you."
>
> After the lesson, one of the students asked her classmate: "How can you identify as a cat when you're a girl?" The schoolteacher reprimanded the student and her friend and said that they were being reported to school officials. And, the teacher reportedly said that they would no longer be welcome at the school if they "continued to express the view that only boys and girls exist". (Townhall: www.click1.srnemail.com/izbcmdttmrbwrrqtwbbfywzr_pmwndpprhdfqphbvhcnmmm_sklkkbpvcskbtbklsrmvcjj.html)
>
> Young children, whatever else they might be, are not cats. Nor unicorns. Nor space aliens, right? However unique we all might be, being grounded in a basic reality is a requirement for life itself. If you believe you are a rock and insist you don't need food, you are not only wrong but soon to be dead. Feed the person, not the delusion. (Hot Air: http://click1.srnemail.com/cqp)mclkkc_sgfsszkfggntfqsvcfjlvvsdlnzvdgpdmjccl_sklkkbpvcskbtbklsrmvcjj.html)

Not so long ago people "identifying" as Napoleon, Caesar, or Jesus Christ, were kept safe in insane asylums. "Not all the lights are on

upstairs", we would say. "Out of touch with reality."

Truth. The freedom to state it. That's how a culture gets in touch with reality. There are ugly consequences from making a joke out of reality.

"I have a right to my religion too" even if "my religion" has no connection to reality. There are eternal consequences from making a joke out of reality.

"...our decision is not based on any view about when a State should regard prenatal life as having rights or legally cognizable interests." (Dobbs) The blood of millions cries out to God, spilled by a score of judges regarded by most Americans as among the smartest in the world, who actually, literally ruled that reality is irrelevant.

That's not evidence of smart. But of insanity.

Which is as much as can be expected of the smartest people in the world, in a discussion that excludes the Bible.

1 Corinthians 1:25 Because the foolishness of God is wiser than men; and the weakness of God *is stronger than men. 2:14 But the natural man receiveth not the things of the Spirit of God: for they are foolishness unto him: neither can he know them, because they are spiritually discerned. 3:19 For the wisdom of this world is foolishness with God. For it is written, He taketh the wise in their own craftiness.*

8 More about **"Courts have so often confused abominations for rights...murdering 17% of [the children Jesus loves], sodomizing 20% of the survivors, and censoring 100% of His teachings in schools"**

Just under 200 babies are murdered for every 1,200 allowed to live, according to the CDC; that is, nearly 200 of every 1,200 pregnancies ends in murder. That's just under 17%. (www.cdc.gov/mmwr/volumes/71/ss/ss7110a1.htm)

Just under 20% of 10-30 year olds who were *not* murdered have been persuaded that they are sodomites, according to Statista. (www.statista.com/topics/1249/ homosexuality/#topicOverview)

For more disgusting examples of Supreme Court abominations, see the article **"Landmark Abomination Cases"** in the section **"What Happened to Unalienable Rights, and How to Get Them Back"**

9 More about **“the development in United States v. Cruikshank 92 U. S. 542 (1876) of the principles of ‘Substantive Due Process’ which were applied in that case to acquit a white Democrat mililtia of murdering “as many as 165” black Republicans and burning down the courthouse they were defending.**

“Substantive Due Process” didn’t get its name until 1906. But its evil rights-blocking reasoning first reared its ugly head in *Dred Scott v. Sandford,* 1854, which fueled America’s Civil War by ruling that Dred Scott was the “property” of his master and thus did not become free, just because he was also human, when his master brought him into a state that had outlawed slavery.

(“Substantive Due Process” is normally associated with a reinterpretation of the “due process” clause in the 14th Amendment, but an article on the Supreme Court website (https://supreme.justia.com/cases-by-topic/due-process/) lists several “due process” cases, beginning with Scott v. Sandford (1857), 11 years before the 14th Amendment was ratified. Justice Thomas characterized the case as “stating that an Act of Congress prohibiting slavery in certain Federal Territories violated the **substantive due process** rights of slaveowners and was therefore void.” See Concurrence in *Johnson* v. *United States*, 576 U.S. 591, 623 (2015))

> Cruikshank arose out of majority-black Grant Parish, Louisiana. Although the election of 1872 had been relatively orderly, local Democrats were able to rig the count, claim a victory, and occupy the courthouse. Uncowed, the Republicans seized the courthouse and organized anmostly black [and mostly unarmed] “posse” to defend it. This was a period of relative calm in most of the South, brought on by the initial success of Enforcement Act prosecutions. But to the white supremacists of Grant Parish, the Republicans’ assertive, mixed-race action constituted an intolerable provocation.
>
> Both sides built up their forces and, after a pitched battle on Easter Sunday, 1873, the Democrats burned the courthouse and massacred some thirty to fifty black prisoners [after they had surrendered!].

Continued in *What Happened to Unalienable Rights, and How to Get Them Back*

** Landmark Abomination Cases*

** The satanic "church" lawsuit: empowered by court "neutrality" about religion*

** 'Substantive Due Process': how SCOTUS usurped the Constitution's Authority to Define Rights, and Congress' Authority to Enforce Rights, into its own authority to reclassify abominations as 'rights'*

** Crumbling Anti-Christian dogmas (Lemon, Employment Division); how Truth can fill the vacuum – Matthew 12:44*

** Solutions: Understanding Establishment of Religion: a Tour through Reality with the Bible as our Guide*

** Solutions: Judicial Accountability Act: How Legislatures can stop judges from legislating*

Matthew 21:18 Now in the morning as he returned into the city, he hungered. 19 And when he saw a fig tree in the way, he came to it, and found nothing thereon, but leaves only, and said unto it, Let no fruit grow on thee henceforward for ever. And presently the fig tree withered away. 20 And when the disciples saw it, they marvelled,

saying, How soon is the fig tree withered away! 21 Jesus answered and said unto them, Verily I say unto you, If ye have faith, and doubt not, ye shall not only do this which is done to the fig tree, but also if ye shall say unto this mountain, Be thou removed, and be thou cast into the sea; it shall be done. 22 And all things, whatsoever ye shall ask in prayer, believing, ye shall receive.

"Life more abundantly" indeed! Infinite power for good! Beyond the wildest dream of any comic book "superhero"! But Luke 18:7 warns, "And shall not God avenge his own elect, which cry day and night unto him, though he bear long with them? 8 I tell you that he will avenge them speedily. Nevertheless when the Son of man cometh, shall he find faith on the earth?

Finding #12: Judicial Interference with Constitutional Obligations is Impeachable.

Any state judge interfering with this state's compliance with the 14th Amendment and its ancient authority to protect its people[1] – the central reason governments exist, is an accessory to genocide according to the uncontradicted consensus of court-recognized fact finders, and is guilty of exercising the legislative function, in order to perpetuate genocide through an unconstitutional ruling, which exceeds the judicial powers given by the state Constitution, which is Malfeasance in Office, a ground of impeachment.[2]

Should any *federal* judge so interfere, this state appeals to its congressional delegation to examine similar grounds for disciplinary action.[3]

This state also appeals to its congressional delegation to exercise its life-saving and rights-protecting authority under Section 5 of the 14th Amendment whose plain words give Congress, not courts, the authority to correct state violations Rights,[4] which subsumes the authority to define their scope and balance competing interests, while the "privileges and immunities" clause identifies as protectable rights those listed in the Constitution.[4]

1 More about **"the ancient authority of state legislatures...to protect the lives of all its people – an authority which no court can legitimately remove."**

Courts that overturn the prolife laws of "red states" interfere with the ancient duty and power of every government, in every generation, to protect life, points out the amicus brief filed in *Dobbs v. Jackson* by *396 State Legislators from 41 States.(*www.supremecourt.gov/Docket_PDF/19/19-1392/185121/ 20210728125120809_Dobbs%20Amici%20brief_State%20Legislators_07272021.pdf)

> State legislators have the constitutional duty, and therefore the power, to protect the fundamental, civil rights of persons. The fundamental law in which those fundamental rights are found is the common law, which consists of both natural duties and those ancient, customary rights and immunities that are foundational to ordered liberty. Thus, a state legislature must declare and secure to all persons within the protection of its laws the rights that those persons have by natural and customary law. Cf. *Washington v. Glucksberg*, 521 U.S. 702, 721-22 (1997) (upholding state legislation that prohibited assisted suicide and reasoning that the Fourteenth Amendment's "Due Process Clause specially protects those fundamental rights and liberties which are, objectively, 'deeply rooted in this Nation's history and tradition'." (quoting *Moore v. E. Cleveland,* 431 U. S. 494, 503 (1977)).
>
> William Blackstone, Commentaries on the Laws of England (1765): "Hence," he said, "it follows, that the first and primary end of human laws is to **maintain and regulate these absolute rights of individuals.**" Id. Blackstone taught that the legislative power is to declare existing common-law rights and duties and to remedy any defects in the legal security for those rights. Id. at *42-43, 52-58, 86-87
>
> The Founders echoed this view in the Declaration of Independence, declaring that **governments are instituted among men in order to secure the inalienable rights with which human beings are endowed by nature and nature's God.** They also accused the crown and Parliament of infringing the rights of "our constitution," which in 1776 could only have been a reference to the common-law constitution of British North America. This view predicated the Constitution of the United

States, which expressly secures natural rights, such as life and religious liberty, and common-law rights, such as jury trials and freedom from the quartering of soldiers in one's home, and expressly disclaims any intent to disparage the other rights of the fundamental law.

Indeed, **the point of having legislatures, executives, and courts is to secure the rights that Americans already have.** Neither state legislatures nor the Constitution of the United States create those rights. See *District of Columbia v. Heller,* 554 U.S. 570, 592 (2008) (stating that "it has always been widely understood that **the Second Amendment, like the First and Fourth Amendments, codified a preexisting right," that it "is not a right granted by the Constitution," and is not "in any manner dependent upon that instrument for its existence."**).

Some, but not all, of the rights of natural persons are enumerated [listed] **in the Constitution** of the United States and its amendments. U.S. Const. art. I, § 8, cl. 8.; art. IV, §2; amends. I-VIII. **Others are enumerated in state constitutions.** See e.g., *Soc'y for the Propagation of the Gospel v. Wheeler,* 22 F. Cas. 756, 766 (No. 13,156) (C.C.D.N.H. 1814). Still others are declared in American constitutions but not enumerated. U.S. Const. amend. IX ("The enumeration of certain rights herein shall not be construed to deny or disparage other rights retained by the people.") (emphasis added). **State legislatures have a duty to declare and secure all fundamental rights, both enumerated and unenumerated.**

Fundamental rights are those that persons enjoy by fundamental law—natural law and common law— with or without any written constitution. Because the common law includes natural rights, to understand the fundamental rights declared and secured by the Constitution, it is sufficient to look to the common law, especially as explained by William Blackstone. Established common-law doctrines constitute the best evidence of the existence and meaning of both enumerated and unenumerated, fundamental rights.

The interpretation of the Constitution of the United States is necessarily influenced by the fact that its provisions are framed in the language of the English common law, and are to be read in the light of its history." *Smith v. Alabama,* 124 U.S. 465, 478 (1888). The terms and concepts of the common law provided the

"the nomenclature of which the framers of the Constitution were familiar." *Minor v. Happersett,* 88 U.S. (21 Wall) 162, 167 (1875). Accord James R. Stoner, Jr., Common-Law Liberty: Rethinking American Constitutionalism 9-29 (2003).

American constitutional rights are not philosophical abstractions. They are described in detail in common law treatises, such as those by Coke and Hale, and especially Blackstone's Commentaries. The framers crafted American constitutions—state and federal—in common law terms. And Blackstone was their teacher and lexicographer....

As this Court has rightly acknowledged, Blackstone's "works constituted the preeminent authority on English law for the founding generation." Alden v. Maine, 527 U.S. 706, 715 (1999). Blackstone retained his influence through the adoption of the Civil War Amendments. James M. Ogden, Lincoln's Early Impressions of the Law in Indiana, 7 Notre Dame L. Rev. 325, 328 (1932). And this Court continues to turn to Blackstone today.

[2 A few examples from recent years include Gamble v. United States, __ U.S. __, 139 S. Ct. 1960 (2019) (the Court's opinion, the concurrence, and one dissent citing Blackstone multiple times to determine the meaning of the phrase "the same offense" in the Fifth Amendment's double jeopardy clause); Department of Homeland Security v. Thuraissigiam, __ U.S. __, 140 S. Ct. 1959, 1969 (2020) (calling Blackstone's Commentaries a "satisfactory exposition of the common law of England"); Ramos v. Louisiana, __ U.S. __, 140 S. Ct. 1390, 1395 (2020) (citing Blackstone in explanation of the holding that the requirement of juror unanimity is "a vital right protected by the common law" and therefore the Constitution's jury trial guarantee); Torres v. Madrid, __ U.S. __, 141 S. Ct. 989, 996, 997, 998, 1000 (2021) (citing Blackstone multiple times to determine meaning of Fourth Amendment "seizure").]...

But as the Ninth Amendment makes clear, the enumeration of certain common-law rights does not deny or disparage all the other rights that the American people enjoy by virtue of natural law and their ancient customs. The Ninth Amendment expressly reserves to the people those civil and fundamental rights that they enjoyed prior to ratification, which are their natural rights, other common-law rights and liberties, and some privileges enumerated in state constitutions.

> Because many states refused to remedy infringements of fundamental rights [for blacks] prior to the Civil War, the Fourteenth Amendment was necessary to ensure to all persons due process of law and the equal protection of the laws, and to empower Congress to remedy infringements of those rights. It bears emphasis that **the Fourteenth Amendment was necessary to recall state legislatures to their original task. Far from repealing the people's retention of fundamental rights declared by the Ninth Amendment, the Fourteenth Amendment strengthened it**. And far from abrogating the duty of state legislatures to declare and secure unenumerated rights, the Fourteenth Amendment reinforced that duty.
>
> [That is, the rights retained by the people but not protected by their state, such as the right of Blacks to liberty, was strengthened – at the expense of the freedom of the legislature to torpedo those rights. And the 14th Amendment did not supplant the duty of legislatures to protect rights, by courts, but rather that duty became enforceable by Congress.

2 More about **"exercising the legislative function, in order to perpetuate genocide...exceeds the judicial powers given by the state Constitution, which is Malfeasance in Office, a ground of impeachment"**

Legislatures have considerable untapped potential for restraining their activist courts when they become confused about which branch of government they are.

Perhaps the major reason few people even think about solutions is fear of any change to the balance of powers between the legislature and the courts. "Better the devil you know than the devil you don't." We don't want to just switch tyrants. A change to a real solution requires wisdom, which requires study, and who wants to study?

Another obstacle is that most people, even Christians, limit their goals to what they consider "realistic", and especially "politically realistic", which usually means what people think they can do without God. Trust that what Jesus promised about "impossible" goals is truly "realistic", enables us to think about not just what would be a little bit better, but about what would be perfect. and then to think about doing whatever we can think of to move in that direction, fully aware how

feeble our own steps are, trusting God to open up new opportunities, in His time, as we walk with Him.

My own feeble steps were drafted into a bill in Iowa in 2020. The bill is posted at http://savetheworld.saltshaker.us/wiki/Judicial_Accountability_Act:_How_Legislatures_can_stop_judges_from_legislating

Senate Judiciary Committee Chair Brad Zaun liked the idea and got it numbered and introduced, but it came to him too late that year to get it through the "funnel", and he was disappointed that there was no organized group helping make other lawmakers aware of it.

The *Judicial Accountability/Restoring the Separation of Powers Act* is Part Two of this book.

ℬ More about **"similar grounds for disciplinary action"**

For example, see "Bringing the Courts Back Under the Constitution" at www.osaka.law.miami.edu/~schnably/GringrichContractWithAmerica.pdf (sic)

𝔄 More about **"Section 5 of the 14th Amendment gives Congress, not courts, the authority to correct state violations of the Right to Life and of Equal Protection of the Laws"**

Section 5 of the 14th Amendment so plainly gives Congress, not courts, the power to correct state violations of fundamental rights, that it is an amazing story how SCOTUS has usurped that power for itself and completely denied it to Congress, and how Congress has let them.

Largely relying on the dissents and concurrences of Justice Clarence Thomas, this story is told in the next section of this book, **"What Happened to Unalienable Rights, and How to Get Them Back",** especially its subsection, " 'Substantive Due Process': how SCOTUS usurped the Constitution's Authority to Define Rights, and Congress' Authority to Enforce Rights, into its own authority to reclassify abominations as 'rights' "

Job 2:5 ..."touch his bone and his flesh, and he will curse you to your face." 6 And the LORD said to Satan, "Behold, he is in your hand; only spare his life."

1 Kings 22:20 And the LORD said, Who shall persuade Ahab, that he may go up and fall at Ramothgilead?....21 And there came forth a spirit, and stood before the LORD, and said, I will persuade him. 22 And the LORD said unto him, Wherewith? And he said, I will go forth, and I will be a lying spirit in the mouth of all his prophets. And he said, Thou shalt persuade him, and prevail also: go forth....

I have talked to prolifers who are afraid to completely outlaw abortion because of how mad, if not violent, that will make Democrat baby killers and voters.

The following history includes how violent Democrat slave owners became, as well as Democrat voters who never even had slaves but who loved being cruel and insulting to blacks, when Republicans took away their slaves by force, and even gave blacks a vote equal to their own! Perhaps indeed Democrat baby killers and voters today will become as violent as they were then when we stop their baby killing – and especially if we go the next step and let unborn babies vote!

But who really should we fear? Not even Satan can hurt us until he first goes before God to get permission. We learn from Job 1 that evil has no power over us except what God allows. Even Satan has to get God's permission to torment anyone. A lying demon has to wait for God to see a need for what it wants to do, 1 Kings 22.

So why does God *ever* let the wicked hurt us? (2 B continued)

What Happened to Unalienable Rights, and How to Get Them Back

Courts have driven God out of America
in order to not “establish religion”,
setting government at war with God

Luke 12:4 ...Be not afraid of them that kill the body, and after that have no more that they can do. 5 But...Fear him, which after he hath killed hath power to cast into hell....

Job 41:10 None is so fierce that dare stir him up: (a fire breathing dinosaur covered with scales which no human weapon could penetrate) **who then is able to stand before me?**

Proverbs 9:10 The fear of the LORD is the beginning of wisdom: and the knowledge of the holy is understanding.

How can we be afraid of germs, terrorists, thieves, lions, debt, cancer, persecution, and a thousand other threats, and not be afraid to disobey God who alone decides what harm can touch us?

Every wild beast today can be hunted by primitives wielding spears. See https://www.wideopenspaces.com/brutal-vintage-film-shows-african-villagers-hunting-with-spears/ Not so the beasts described in Job 40 and 41.

These descriptions actually match our descriptions of dinosaurs. But how did Bible writers know about them, if they were extinct 10 million years ago? The point of Job 40-41 would have made no sense if the beasts were imaginary. No one is afraid of an imaginary beast. God's point: "You won't even ignore a mere lion charging at you. Yet you will ignore ME? Who *created* lions and bridles them to My purposes?!"

To the extent we fear God, it is because we know He manages all that happens; nothing can hurt us without His permission. So to the extent we fear God, we fear nothing else. And our fear is slight because we know God's love. 1 Corinthians 2:9 ...Eye hath not seen, nor ear heard, neither have entered into the heart of man, the things which God hath prepared for them that love him.

1. Landmark Abomination Cases

The following landmark Abomination Cases are among those listed as "Establishment Clause" cases at https://supreme.justia.com/cases-by-topic/religion and as "Due Process" cases at www.supreme.justia.com/cases-by-topic/due-process.

"Establishment Clause" cases are so categorized because their jurisdiction is based on the clause of the 1st Amendment that reads: "Congress shall make no law respecting an **establishment** of religion...." Originally that meant the federal government can't force you to attend, or give money to, their favorite church. Now it means no government statement or policy can say anything nice about the Bible.

"Due Process" cases are so categorized because their jurisdiction is based on the clause of the *14th* Amendment that reads, "...nor shall any State deprive any person of life, liberty, or property, without **due process** of law...." The 5th Amendment has the same right, but only applied when *federal* prosecutors go after someone. It is the 14th Amendment that gives courts jurisdiction when *states* deprive someone of "Due Process".

There are two kinds of "Due Process" that lawyers talk about.

The original kind is "Procedural Due Process", which is not controversial, is not the source of abominations, and is the only kind the Constitution authorizes. It simply means that when people are prosecuted, they should have the same opportunity to defend themselves – the same legal procedures (right to a jury, to a lawyer, to know the charges, to face accusers, etc) that they would if they were rich, famous, powerful, and "important".

The new kind is called "*Substantive* Due Process". The quotes from Justice Clarence Thomas and other scholars in Chapter 3, below, explain that "Substantive Due Process" is made up by judges to give themselves authority the Constitution denies, in order to violate the rights specified in the Constitution and wage war against God. (Not that these authorities dare to observe out loud that SCOTUS is at war with God, but a look at their Landmark Abomination Cases makes clear that is what they are doing, and Christian literature often perceives spiritual warfare in their rulings.)

Courts didn't start using the phrase "Substantive Due Process" until after 1900, but their anti-reasoning was at work in the 1857 case that sparked the Civil War, *Dred Scott v. Sandford,* in which a black

slave sued for freedom when his master took him into a state that had outlawed slavery, but SCOTUS said Dred Scott was "property" with no right to appeal in court – and any man ought to be allowed to carry his "property" across state lines without forfeiting *it.*

(See *"3. 'Substantive Due Process': how SCOTUS usurped the Constitution's Authority to Define Rights, and Congress' Authority to Enforce Rights, into its own authority to reclassify abominations as 'rights')*

The following "Due Process" cases invoke "Substantive Due Process" in whole or in part.

Background: The 14th Amendment was ratified in 1868, three years after the Civil War ended, to force Southern states to give Blacks all the rights given others. It enables Congress to force states to protect their citizens' rights that are listed ["enumerated"] in the Constitution, especially in its first Eight Amendments – when states are not otherwise willing. It describes those enumerated rights as "privileges" (ie. freedom of religion, right to bear arms, publish the truth) and "immunities" (ie. freedom *from* "cruel and unusual punishment").

At least that was the understanding of the authors of the 14th Amendment, and of the voters who ratified it in 1868, according to Justice Thomas in several dissents, including in *Dobbs v. Jackson.*

But as Thomas explained, it took SCOTUS only five years (1873, *Slaughterhouse Cases*) to take Congress' power over states to itself, (in Section 5 of the Amendment), and to remove *all* of the enumerated rights in the Bill of Rights from what SCOTUS allowed the 14th Amendment to protect!

And it was not long afterward that SCOTUS seized the power to *define* which rights are "constitutionally protected" from the list in the Constitution, by imagining in the 14th Amendment's "Due Process" clause the authority to dream up whatever seemed right to them.

The 14th Amendment gives federal courts power to stop states from violating rights. SCOTUS misused its new power over states, to stop them from* protecting *rights.

The 14th Amendment defines as "rights" those which are listed in the Constitution. (Right to life, freedom of speech and religion, etc.) It took SCOTUS only 5 years to reduce the list of rights to only those in the Constitution which it likes,

and those which it makes up, even when they violate Constitutional rights.

The 14th Amendment, Section 5, gives Congress, not courts, the power to "enforce" the amendment, which subsumes the authority to define the scope of rights. SCOTUS says Congress can only enforce rights that SCOTUS says are rights, and to only the extent that SCOTUS permits.

That history, supported by quotes from Justice Thomas and others, is summarized in the following Chapter 3, *'Substantive Due Process': how SCOTUS turned the Constitution's Authority to Define Rights, and Congress' 14th Amendment Authority to Enforce Rights, into its own authority to reclassify abominations as 'rights' "*.Or, ***"How SCOTUS morphed the Constitution's end of racial tyranny into its own tool of judicial tyranny in only five years***

The 14th Amendment. Here is the 14th Amendment itself. Notice that Section One has four clauses. Lawyers refer to them by their key words: the "citizenship clause", the "privileges and immunities" clause, the "due process" clause, and the "equal protection clause". Each clause protects a distinct set of very important rights, over which judges and lawyers continually battle along with Section 5 which names Congress, not courts, as the enforcer of rights.

> (Section 1) 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. No State shall make or enforce any law which shall abridge the **privileges or immunities** of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without **due process** of law; nor deny to any person within its jurisdiction the **equal protection** of the laws....
>
> (Section 5) The ***Congress* shall have the power** to enforce, by appropriate legislation, the provisions of this article.

The last 4 Clauses protect the Right to Live. The "Privileges and Immunities" clause protects unborn babies. The clause refers to every right listed ("enumerated") in the Constitution, and the right to live is "enumerated" in the following "Due Process" clause, besides

being the Number One "unalienable right" listed in the Declaration of Independence, which declares protection of that right to be the primary purpose of governments.

The "Equal Protection" clause protects unborn babies. A state deciding whether to let them live certainly exercises "jurisdiction" over them, so babies must have "equal protection" with judges – a baby's life should have the same protection in law as the life of any judge.

The "Due Process" clause protects unborn babies. SCOTUS has extracted dozens of rights from that poor little clause, none of which are as "fundamental" as the right to live, which *Dobbs v. Jackson* refuses to protect from murder-driven voters.

The "Congress shall have the power to enforce" clause protects unborn babies. Unlike mere Supreme Court justices who declared themselves less competent than doctors and preachers to understand whether a baby of humans is a genuine human, Congress figured it out in 2004.

This protection needs to be pointed out in public and in court as part of stopping courts from grabbing rights-defining and -enforcing authority from the "due process clause".

For now, here is a list of...

Landmark Abomination Cases

The summaries of each case listed here are excerpted from the cases themselves by justia.com, except for the second and third cases – Slaughterhouse Cases and Cruikshank – which demand more explanation. See https://supreme.justia.com/cases-by-topic/religion and *www.supreme.justia.com/cases-by-topic/due-process*.

Protecting Slave Owners.

Dred Scott v. Sandford (1857). "An act of Congress that deprives a citizen of the United States [a slave owner] of his liberty or property [his slave] merely because he came or brought his property [his slave] into a particular territory of the United States [a state that outlawed slavery] could hardly be dignified with the name of due process of law."

Ripping Enumerated Rights from 14th Amendment Protection.

("Enumerated" means "specifically listed in the U.S. Constitution, mostly in the first Eight Amendments.)

Slaughterhouse Cases (1873) "The **privileges and immunities** of citizens of the United States [referred to in the 14th Amendment] are those that arise out of the nature and essential character of the national government, [as opposed to rights which duplicate what states are supposed to protect!] the provisions of the Constitution, [except for the first eight Amendments, since they duplicate what states are supposed to protect!] or federal laws and treaties made in pursuance thereof."

The effect of the Slaughterhouse Cases was to neutralize the reach over states of the rights listed ("enumerated") in the Constitution, mostly in the first Eight Amendments, which was described in the 14th Amendment as "privileges and immunities" according to the highly publicized understanding of its authors and of the public. As Justice Thomas explained in his dissent in *Dobbs v. Jackson,* that left lawyers after that trying to squeeze protection of rights out of the *Due Process* clause which had no definitions beyond what the justices made up. That is the system today.

Readers not ready to believe SCOTUS would this transparently and this thoroughly rewrite the 14th Amendment, we need a 2nd or 3rd witness, per Deuteronomy 17:6, 19:15, Matthew 18:16, 2 Corinthians 13:1, 1 Timothy 5:19, Hebrews 10:28. I have characterized Clarence Thomas' analysis above; in Chapter 3, below, I reprint his quotes. For now, Justia.com (see link above) acknowledges this transfer from the second clause to the third:

> "(The main holding of this case addressed the Privileges or Immunities Clause of the Fourteenth Amendment, rather than the Due Process Clause. However, it is significant for due process doctrine because it made the Due Process Clause the foundation for most Fourteenth Amendment claims involving fundamental rights. This function otherwise might have been served by the Privileges or Immunities Clause.)"

A 3rd Witnesses is *Findlaw.com,* a service for lawyers. It documents the fact that SCOTUS refused to protect any rights which the state was *supposed* to protect but failed to protect, even though the whole purpose of the 14th Amendment was to hold states accountable when they fail to protect the rights of their own citizens. *Findlaw* says "the Court construed the [privileges and immunities] clause to protect only those rights that pertain to ***U.S.*** citizenship, not those granted by ***state*** citizenship." (https://supreme.findlaw.com/supreme-court-insights/the-slaughterhouse-cases--decision-summary-and-impact.html)

The 14th Amendment: When a state tramples God-given rights, including rights described in the U.S. Constitution – especially in its first eight Amendments, Congress can pass laws against those violations, which can be enforced by U.S. marshals, if not national troops, after courts establish guilt.

***Slaughterhouse Cases* Logic**: When states trample ancient God-given rights, the 14th Amendment doesn't stop them. The only rights the 14th Amendment was designed to protect are rights which were originally created by the national government – like the right to dock your ship in another state's harbor – which states have no jurisdiction to enforce anyway.

Concluding its article about the *Slaughterhouse Cases, Findlaw* said "The privileges or immunities clause of the 14th amendment looked to be a dead letter entirely until recently. Justice Clarence Thomas, a George H. W. Bush appointee, wrote a concurring opinion in the landmark case, Dobbs v. Jackson Women's Health Organization (2022)...."

Indeed he did! Highlights from that concurrence, from his dissents in other cases which he named in Dobbs, and from other writers, including amici briefs filed in Dobbs, fill up the following chapter 3, *'Substantive Due Process': how SCOTUS turned the Constitution's Authority to Define Rights, and Congress' 14th Amendment Authority to Enforce Rights, into its own authority to reclassify abominations as 'rights' ".*Or, ***"How SCOTUS morphed the Constitution's end of racial tyranny into its own tool of judicial tyranny in only five years***

Findlaw documents how SCOTUS' perversion of rights *turned the 14th Amendment, which was created to protect Blacks, into a weapon protecting the Ku Klux Klan against Blacks:* "the Court's narrow reading [legalistically hostile interpretation] of the privileges or immunities clause opened the door for states to curtail individual rights through their police powers. This paved the way for Jim Crow laws in the post-Reconstruction South."

(Except that as the Cruikshank history, next, shows, "states" were

trying to *protect* the rights of blacks to live in safety and to have a voice in government, if we define "states" as those governments established by the majority of voting citizens. We can say "states...curtailed individual rights" only after we redefine "states" as the former white slaveholders, who counted themselves as still in the majority by not counting blacks as citizens (the 14th Amendment said everyone born here is a citizen here) who ruled not by government but by their guns.)

Findlaw also explains how *some* of the rights of the first Eight Amendments, though all were at first ignored by SCOTUS, became rights SCOTUS decided to protect (although Thomas points out later cases that say only SCOTUS, not Congress, can define and apply rights. In fact Congress is only allowed to protect those rights which SCOTUS has already protected, and only to the degree SCOTUS says!) *Findlaw*: "The Supreme Court spent much of the 20th century undoing the effect of the Slaughterhouse Cases through what became known as the incorporation doctrine. According to this doctrine, the due process clause of the Fourteenth Amendment 'incorporates' many of the rights granted by the Bill of Rights, making them applicable to the states."

A 4th witness, a summary from www.britannica.com/event/Slaughterhouse-Cases helps explain and document the same facts:

> SCOTUS, in *Slaughterhouse Cases,* "declared that the Fourteenth Amendment had **"one pervading purpose": protection of the newly emancipated blacks.** The amendment did not, however, shift control over all civil rights from the states to the federal government. States still retained legal jurisdiction over their citizens, and federal protection of civil rights did not extend to the property rights of businessmen.
>
> Dissenting justices held [correctly] that the **Fourteenth Amendment protected all U.S. citizens from state violations of privileges and immunities** and that state impairment of property rights was a violation of due process.
>
> The Slaughterhouse Cases represented a temporary reversal in the trend toward centralization of power in the federal government. More importantly, **in limiting the protection of the privileges and immunities clause, the court unwittingly weakened the power of the Fourteenth Amendment to protect the civil rights of blacks.**

Protecting the Ku Klux Klan.

***United States v. Cruikshank,* 92 U. S. 542 (1876).**

Justice Clarence Thomas, writing in *McDonald v. City of Chicago,* 561 U.S. 742 (2010), writes about *Cruikshank:*

> There, the Court held that **members of a white militia who had brutally murdered as many as 165 black Louisianians congregating outside a courthouse had *not* deprived the victims of their privileges as *American* citizens to peaceably assemble or to keep and bear arms.**
>
> [It was a privilege of *state* citizenship, so only the *state* had jurisdiction to protect it, or the choice to let Democrat slavery-loving terrorists trample it! The 14th Amendment only gave federal authorities jurisdiction over *federal* rights which did not duplicate *state* rights or *ancient, God-given* rights!]
>
> Ibid.; see L. Keith, *The Colfax Massacre* 109 (2008). According to the Court, the right to peaceably assemble codified in the First Amendment was not a privilege of *United States* citizenship because "[t]he right . . . existed long before the adoption of the Constitution." 92 U. S., at 551 (emphasis added). Similarly, the Court held that the right to keep and bear arms was not a privilege of *United States* citizenship because it was not "in any manner dependent upon that instrument for its existence." Id., at 553.
>
> In other words, the reason the Framers codified the right to bear arms in the Second Amendment—its nature as an inalienable right that pre-existed the Constitution's adoption—was the very reason citizens could not enforce it against States through the Fourteenth.
>
> **That circular reasoning effectively has been the Court's last word on the Privileges or Immunities Clause.** [That is, SCOTUS still follows that warped reasoning.]

More from https://journals.law.harvard.edu/crcl/wp-content/uploads/sites/80/2011/09/385_Pope.pdf :

> *For the first time*, the Court held that rights guaranteed in the Bill of Rights (here, the right to assemble peaceably and the right to bear arms) were not among the privileges or immunities of national citizenship [including the rights listed in the Bill of Rights] and thus could not be reached [protected] by Congress under the Fourteenth Amendment.

Actually that *wasn't* the first time SCOTUS held that *none* of the rights in the Bill of Rights could be protected from states by Congress. The Slaughterhouse majority, three years before, had so held.

But there are three ways *Cruikshank* outdid *Slaughterhouse:*

(1) *Slaughterhouse* did not specify the right to assemble peaceably and the right to bear arms as being unprotectable, (2) *Slaughterhouse* ruled against the butchers partly because they saw the 14th Amendment's purpose as to protect blacks, not a whites-only fraternity of butchers, and (3) there was no national emergency that might have moved the *Slaughterhouse* Court to enforce the right to assemble peaceably and the right to bear arms, but there *was* an environmental emergency caused by the white butchers that cried out for the Court to rule against them.

After election fraud by Democrats, (déjà vu), Republicans, who had controlled the courthouse, organized a defense of it by mostly black Republicans. (Blacks were overwhelmingly Republicans, since the mostly Republican North had gone to war to set them free, while the Democrats who dominated the South had gone to war to keep them slaves.)

Although some were armed, they were peaceably and lawfully assembled, until they were attacked by terrorist Democrats.

> ....Cruikshank grew out of a pitched battle between black Republicans and white supremacist Democrats. After a dispute over the 1872 election results in majority-black Grant Parish, Louisiana, armed Republicans occupied the Parish courthouse at Colfax. By Easter Sunday, 1873, about 150 [mostly unarmed] black defenders were positioned behind an arc of shallow earthworks. A force of white Democrats, about twice as numerous and far better armed, surrounded the Republican positions. After a three-hour battle, the Democrats prevailed and took a number of prisoners. Some hours later, a contingent of whites led by William Cruikshank murdered most of the prisoners, probably between twenty-eight and thirty-eight.
>
> U.S. Attorney James Beckwith brought charges under the Enforcement Act of 1870. At each stage of the proceedings, the government was met with determined resistance, including **beatings and murders of potential witnesses and a concerted effort to shield suspects** so effective that — despite the use of an ironclad riverboat and a force of soldiers — only nine of the

ninety-eight men initially indicted could be located and arrested.

Prosecutors, grand jurors, and petit jurors all risked their lives to participate, and one witness was nearly killed in a retaliatory knife attack. Black witnesses, corroborated by an undercover white Secret Service agent who had gathered accounts from white participants, testified that the perpetrators had taunted their victims with racial epithets while cutting and shooting them to death. The jury, which included nine whites, one person of color, and two persons of uncertain racial identity, acquitted six of the defendants but convicted the remaining three of conspiracy to interfere with the constitutional rights of two black Republicans [Only two?] ...to assemble peaceably, to bear arms, to enjoy life and liberty unless deprived thereof by due process of law, to enjoy the equal benefit of all laws, and to vote.

...Supreme Court intervention came early, as Justice Joseph P. Bradley, riding circuit, issued an opinion in June of 1874 overturning the convictions. Two years later, the full Court upheld Bradley's ruling, embracing his reasoning on all but one of the central points.

The effect of this SCOTUS Landmark Abomination Case was to unleash terror across the South for the next few generations. Until the Court unleashed this violence, Republican forces, through the 13th and 14th Amendments and enforcement legislation, had brought peace to the South.

...(After years of murder and torture by white Democrats from the end of the Civil War in 1865 was finally largely suppressed by the work of Congress), By 1872, Frederick Douglass [the eloquent black leader] could observe with satisfaction that the "scourging and slaughter of our people have so far ceased." Despite the tiny proportion of perpetrators actually imprisoned, the federal government, together with southern witnesses and juries, had reestablished a degree of law and order in most of the South. The election of 1872, the most peaceful of the Reconstruction era, [the decades after the Civil War] saw Republican victories across the South, including the recovery of the Alabama governorship, the only time that democracy was restored in a state that had been "redeemed" by the Democracy. After the election, it appeared that African

Americans might be able to exercise their constitutional rights without risking torture and death.

At this juncture, however, the Justices of the United States Supreme Court intervened. (The massacre was in 1873. A single Supreme Court judge voted to acquit the terrorists in 1874. The full Supreme Court agreed with him in their 1876 ruling.)

... The Impact of Justice Bradley's Ruling on the Ground Immediately after Bradley's ruling, federal officials predicted that it would unleash white supremacists to resume their campaign of violence across the South, and they were soon proven correct. Whites celebrated in Colfax by holding a mass meeting, riding out in the night, and slitting the throat of Frank Foster, a black man who happened to be walking along the road. Two days later, Christopher Columbus Nash, the first named defendant in the Cruikshank indictment, led an armed force to a nearby town and ejected five Republican officials from office. In August, a crowd of whites that reportedly included Nash marched to the Republican stronghold of Coushatta and murdered three leading African Americans, torturing one to death in front of a crowd. The next day, **armed white supremacists executed six *white* Republican office holders,** one of whom had warned that resistance would be futile "thanks to Justice Bradley." Coushatta marked the first time that white supremacists had staged a massacre of their *own* race.

Three months after the ruling, on July 4, 1876, the Democrats brought their paramilitary strategy to South Carolina, where the black majority exceeded 60%. "Rifle clubs" converged on the Republican stronghold of Hamburg, defeated an all-black contingent of the state militia, and **murdered five prisoners *after the battle.***

During a subsequent series of paramilitary attacks in majority-black Barnwell County, white supremacists **assassinated a black Republican state representative** in full view of passengers on a train. Rifle clubs systematically disrupted Republican campaign meetings, rode through Republican towns shooting guns, and openly **called for the murder of Republican leaders.**

As the election approached, Attorney General Alphonso Taft issued a circular ordering U.S. Marshals to protect voters in

> "the free exercise of the elective franchise," and, on October 17, President Grant committed federal troops. By that time, however, the Democrats had established dominance in too many localities. Using a combination of terrorism and election fraud, they managed to prevail in the initial counts from every southern state.
>
> ...The Republican-controlled state electoral boards in Louisiana, South Carolina, and Florida invalidated the returns from their states, bringing on the controversy that would eventually result in the "Great Compromise" of 1877. [In which] The Democrats accepted Hayes as President, and Hayes withdrew the federal troops guarding the Louisiana and South Carolina state houses, leaving the Democrats free to stage bloodless coups against the last two Reconstruction governments.
>
> After 1877, the struggle continued, but in a greatly altered landscape. African Americans had lost the capacity to exercise and defend their rights in most of the South most of the time.
>
> https://journals.law.harvard.edu/crcl/wp-content/uploads/sites/80/2011/09/385_Pope.pdf

Today SCOTUS casts itself as the champion of individual rights that are trampled by state laws. But Cruikshank was only the second or third of a long line of Landmark Abomination Cases in which SCOTUS blocked states from defending the rights listed in the Constitution and in the Bible so SCOTUS could protect the "rights" it made up to protect perverts and murderers against law-abiding Christians.

The 14th Amendment gave Congress power to enforce the Amendment against states that won't protect these rights of their own citizens, by passing laws against such attacks, which Congress had done. But in 1873, it was the state, with a Republican majority of its elected leaders, which was trying to protect the right to peaceably assemble by prosecuting Democrat violence. Congress had not only passed a law enabling prosecution of Democrat terror, but had commissioned federal troops to assist local elected authorities in restoring law and order.

It was the Supreme Court which intervened, blocking the state's power to *protect* constitutional rights. (That is, if by "state" we mean the government that represents the majority of voters. The white supremacist minority considered *itself* "the state", as the majority, by refusing to count blacks as citizens as the 14th Amendment had established.)

Here is a summary of the objects of violence which Southern states had nearly brought under control before the Supreme Court intervened:

> Slaves [before the Civil War] had been prohibited from learning to read and write; the...Ku Klux Klan and other secret...societies [after the war] burned the freed people's new schools and terrorized their teachers.
>
> Slaves and free blacks had been excluded from the franchise [right to vote]; the societies [after the war] blocked blacks from voting, punished those who nevertheless succeeded, and — following the lead of John Wilkes Booth — attacked and assassinated Republican office holders and grassroots leaders. Slaves had been prohibited from gathering without permission; the societies **broke up unauthorized assemblies** whenever possible. Slaves had been permitted to conduct religious services only under white pastors; the societies burned black churches and attacked their ministers.
>
> It had been a crime for slaves to lift a hand in self-defense; the societies were particularly outraged when blacks dared to defend themselves against white abuses. They **confiscated African Americans' guns** and ransacked their homes for weapons and booty.

The state never asked the Supreme Court for help defending itself from Democrat terrorists. The only reason SCOTUS got involved was because a visiting SCOTUS "circuit" (traveling) judge, Bradley, was given the honor of sitting in on the trial of the Cruikshank defendants. Bradley was given honor, and his presence gave prestige to the trial.

Bradley was given a vote equal to the vote of the district judge. The district judge voted to convict; Bradley voted to acquit. The tie would have to be broken by the full SCOTUS.

> *A. Justice Bradley's Circuit Court Opinion in Cruikshank*
>
> ....Justice Joseph P. Bradley, riding circuit in New Orleans, joined Circuit Judge William B. Woods on the bench during trial. On June 27, 1874, Bradley announced his opinion overturning the convictions. Judge Woods disagreed, splitting the court and ensuring Supreme Court review. ...Even after the [full] Court announced its own opinion in 1876, Bradley's would

sometimes be cited in preference, including by the Court itself....

Forgive me for repeating the following irrationality of the case, but it is so ignorant, that I just want to make sure you don't think it is a misprint:

Bradley, and later the full SCOTUS ruling, described themselves as ruling *for the state* against usurpers. But their ruling was against the right of Republicans, elected by the majority of voters, to defend themselves against the murder and terror of Democrats, the minority party. The discrepancy is explained by President Andrew Johnson's answer to a black delegation, why they should still have no voice in government. (Before the 15th Amendment, which gave them the right to vote.) Johnson had been Vice President under Lincoln.

Johnson explained that *"the state" means the white voters before the war, excluding the newly freed blacks.* He said the state can't be forced (by the Constitution) to redefine itself without its permission. The 14th Amendment later redefined the citizenship of "the state" to include the freed blacks, but white Democrats stuck with Johnson's view.

> The "state" jurisdiction that Bradley and Waite defended against federal encroachment was not that of the official state governments constituted by the full citizenry [as] defined in the Fourteenth Amendment, but that of the sovereign people of the South defined by Johnson and the paramilitary insurgents. It was in *this* sense of the word "state" that later commentators would praise Waite [the Chief Justice who authored the *Cruikshank* opinion] for terminating the "radical plan to protect the Negro by subjection of the states."

When I read the Cruikshank ruling, I was confused and amazed that the ruling didn't describe what anyone did that broke the law. Every other ruling reports both "the law and the facts"; that is, what the defendants did that broke the law, and what law they broke. Not Cruikshank! All we read there is what the laws prohibit, *implying* someone must have done that, but there is no "who did what, where and when". Mr. Pope explains why:

> Chief Justice Waite wrote for the [full Supreme] Court. At a time when many newspapers were denying the existence of white supremacist terror, [Chief Justice] Waite followed Bradley in refraining from reporting the underlying facts of the massacre.

Finally, we're done with *Cruikshank* until we get to Chapter 3's analysis by Justice Thomas. On with more Landmark Abomination Cases:

***Civil Rights Cases* (1883)** "It is *state* action of a particular character that is prohibited by the Fourteenth Amendment. *Individual* invasion of individual rights is not the subject matter of the amendment."

That was the Justia.com excerpt. This logic would have legalized slavery again! Slaves were not owned by states, but by individuals!

This was no new logic but only repeated the trashing of the 14th Amendment by the *Slaughterhouse Cases.*

Sterilizing "Imbeciles"

Buck v. Bell (1927) "A state may provide for the sexual sterilization of inmates of institutions supported by the state who are found to be afflicted with a hereditary form of insanity or imbecility."

This of course violated the rights of those deemed "insane" or stupid. Surely it comes under "cruel and unusual punishment". But SCOTUS had removed Congress' voice in the matter, and supported a state in this cruelty.

Had SCOTUS stuck to its 14th Amendment authority it never would have taken the case, because the reason the case existed was to challenge state laws which made sterilizing girls illegal, and the 14th Amendment gives SCOTUS no authority to overturn state laws which protect the rights of state citizens. The Amendment gave Congress, not courts, authority to enforce rights.

The Wikipedia article about this (https://en.wikipedia.org/wiki/Buck_v._Bell) gives many details about the lies told about Carrie Buck in order to fool the court, which apparently wasn't that hard to do. It says the ruling has never been overturned, although it is ignored.

But "between 1907 and 1983, more than 60,000 people were involuntarily sterilized" with a boost from the Supreme Court's 1927 ruling, according to the Amicus Brief filed in *Dobbs v. Jackson* by AfricanAmerican, Hispanic, Roman Catholic and Protestant Religious and Civil Rights Organizations. (www.supremecourt.gov/DocketPDF/19/19-1392/184908/20210726131118652_19-1392_Amici%20Brief%20In%20Support%20of%20Petitioners.pdf)

The brief was defending Mississippi's standing to protect life, from a district judge who reminded everyone that a Mississippi hospital

had sterilized six out of 10 women in the past, so the brief points out that the total casualty list is more like 60,000, and the perp is not the state of Mississippi but the Supreme Court ruling of 1927; and further, the instigator of that Supreme Court ruling was the District Judge's personal heroine: Margaret Sanger with her Eugenics madness.

The brief's characterization of the Buck ruling by SCOTUS:

> "In Buck, the Court approved the compulsory sterilization of an allegedly 'feeble minded' woman who had been falsely adjudged 'the probable potential parent of socially inadequate offspring.' Buck, 274 U.S. at 205, 207. In a short opinion, Justice Oliver Wendell Holmes, Jr., joined by seven other Justices, 'offered a full-throated defense of forced sterilization...as a means to 'prevent' society from being 'swamped with incompetence'"

Outlawing Public Reliance on God

Engel v. Vitale (1962) "State officials may not compose an official state prayer and require that it be recited in public schools, even if the prayer is denominationally neutral, and even if students may remain silent or be excused." (Still in effect.)

Abington School District v. Schempp (1963) "No state law or school board may require that passages from the Bible be read or that the Lord's Prayer be recited in public schools, even if students may be excused from attending or participating upon written request of their parents."

Had SCOTUS stuck to its 14th Amendment authority it never would have taken the case, because the reason these cases existed was to challenge state laws which enabled majorities to publicly acknowledge God without compelling minorities to participate. The Amendment gives SCOTUS no authority to decide this public prayers or Bible reading constitutes "establishment of religion" and then to outlaw it. The Amendment gives Congress alone that authority, and Congress had raised no objection to these acknowledgments of God.

Protecting Contraception

Griswold v. Connecticut (1965) "A state law forbidding the use of contraceptives violates the right of marital privacy, which is within the penumbra of specific guarantees of the Bill of Rights." (Still in effect.)

Had SCOTUS stuck to its 14th Amendment authority it never would have taken the case, because the reason the case existed was to

challenge state laws which defended unborn babies against slaughter, and the 14th Amendment gives SCOTUS no authority to overturn state laws which protect the right to life of babies.

The Amendment gave Congress, not courts, authority to enforce rights, and Congress had not objected to saving the lives of tiny humans. Much less had Congress opined that congressmen aren't smart enough to know if a tiny human is a human.

Even if Congress had so opined, the 14th Amendment gives Congress authority to enforce only those rights listed in the Constitution, and killing unborn babies isn't among them.

Driving God Out of Government

Lemon v. Kurtzman (1971) "To comply with the Establishment Clause, a law must (1) have a secular legislative purpose, (2) its principal or primary effect must neither advance nor inhibit religion, and (3) it must not foster an excessive government entanglement with religion." (Not still in effect technically, but no clear replacement is in effect. See Chapter 4 below.)

The Supreme Court website summarizes the facts: "Both Pennsylvania and Rhode Island adopted statutes that provided for the state to pay for aspects of non-secular, non-public education. The Pennsylvania statute was passed in 1968 and provided funding for non-public elementary and secondary school teachers' salaries, textbooks, and instructional materials for secular subjects. Rhode Island's statute was passed in 1969 and provided state financial support for non-public elementary schools in the form of supplementing 15% of teachers' annual salaries." https://www.oyez.org/cases/1970/89 Wikipedia adds that this compensation was for teachers "who taught in these private elementary schools from public textbooks and with public instructional materials."

Had SCOTUS stuck to its 14th Amendment authority it never would have taken the case, because the reason the case existed was to challenge state laws which gave modest compensation to private school teachers to encourage them to teach from public school materials. The 14th Amendment gives SCOTUS no authority to overturn state laws which benefit state citizens.

The Amendment gave Congress, not courts, authority to enforce rights, and Congress had not objected to incentivizing private school teachers to use public school materials.

Even if Congress had thought that counted as "establishment of religion", the authority of courts given by the 14th Amendment is

limited to enforcing a law of Congress. It does not extend to usurping Congress' authority to enforce rights, which subsumes the power to define the scope of rights.

Protecting Baby Killing

Roe v. Wade (1973) "The Due Process Clause protects against state action the right to privacy, including a woman's qualified right to terminate her pregnancy. Although the state cannot override that right, it has legitimate interests in protecting both the pregnant woman's health and the potentiality of human life, each of which interests grows and reaches a compelling point at various stages of the woman's approach to term." (Still in effect.)

Had SCOTUS stuck to its 14th Amendment authority it never would have taken the case, because the reason the case existed was to challenge state laws which defended unborn babies against slaughter, and the 14th Amendment gives SCOTUS no authority to overturn state laws which protect the right to life of babies.

The Amendment gave Congress, not courts, authority to enforce rights, and Congress had not objected to saving the lives of tiny humans. Much less had Congress opined that congressmen aren't smart enough to know if a tiny human is a human.

Even if Congress had so opined, the 14th Amendment gives Congress authority to enforce only those rights listed in the Constitution, and killing unborn babies isn't among them.

The driving force is not only blood lust and contempt for innocence, but dehumanization of "inferior races" which need to be exterminated: in other words, Eugenics, as pointed out by the Amicus Brief filed in *Dobbs v. Jackson* by AfricanAmerican, Hispanic, Roman Catholic and Protestant Religious and Civil Rights Organizations. (www.supremecourt.gov/DocketPDF/19/19-1392/184908/20210726131118652_19-1392_Amici%20Brief%20In%20Support%20of%20Petitioners.pdf)

> [What an admission from Justice Ginsberg:] "And as the late Justice Ginsburg once observed: '[A]t the time Roe was decided, there was concern about population growth and particularly growth in populations that we don't want to have too many of. So that Roe was going to be then set up for Medicaid funding of abortion.'"
>
> [Now the tie-in to abortion today: The racism, the extermination of blacks especially, is not just in the past. It's

now.] “In Mississippi, 3,005 abortions were reported in 2018. Of those abortions, 72% were performed on black women, compared to just 24% on White women and 4% on women of other races.” [The brief has *pages* of stats like that.] “The racial disparity in abortions is largely intentional: A study based on 2010 Census data shows that nearly eight out of ten Planned Parenthood abortion clinics are within walking distance of predominantly Black or Hispanic neighborhoods. More specifically, Planned Parenthood intentionally located 86 percent of its abortion facilities in or near minority neighborhoods in the 25 U.S. counties with the most abortions. These 25 counties contain 19 percent of the U.S. population, including 28 percent of the Black population and 37 percent of the Hispanic/Latino population.”

[The relevance to the case before us:] “states have a compelling interesting in ‘preventing abortion from becoming a tool of modern-day eugenics.’ Id. at 1783. And that interest far outweighs this Court’s judicially fashioned distortion of the Constitution.”

[So LC concludes,] “The Court should condemn the district court’s disparaging rhetoric, reverse the decision below, and finally overrule Roe v. Wade and its progeny.”

[This brief associates abortion, abortionists, and abortion-supporting courts, with the Eugenics movement] “THAT ELIMINATES “LESS DESIRABLE” RACES AND CERTAIN CLASSES OF PEOPLE TO EVOLVE A SUPERIOR HUMAN POPULATION.” [It starts off with a shot at the district judge who insulted Mississippi’s motives as part of a long string of racist denials of rights; this Liberty Counsel brief **accuses the whole abortion movement, including Roe, Doe, Casey, etc. as the gold standard of racism.]**

“The sinister goal of the eugenics movement was to eliminate ‘unfit’ and ‘undesirable’ people—those with mental and physical disabilities as well as certain races.”

The brief points out **the rest of the title of Darwin’s racist “Origin of Species”** which today’s atheists normally leave out of their proud citations: **“or, the Preservation of Favoured Races in the Struggle for Life”**! Many quotes are given from Darwin’s 1871 book, “The Descent of Man”, which must be **terribly embarrassing for any atheist or evolutionist.** He makes a Ku Klux Klan Grand Wizard look

like a paragon of intelligence and tolerance.

A sure indication that man's laws have strayed far enough from God's laws for even children to notice, is when man's laws and court rulings become just plain irrational. Crazy. Aside from their cruelty, their pure evil, they are internally inconsistent. Hypocritical. They make no sense.

This feature of *Roe v. Wade* was analyzed in the Amicus Brief filed in *Dobbs v. Jackson* by Senators Josh Hawley, Mike Lee, and Ted Cruz. [www.supremecourt.gov/DocketPDF/19/19-1392/184947/20210726160225898_2021-07-26%20Hawley%20Amicus%20Brief%20FINAL%20-%20PDFA.pdf]
Some excerpts:

> "Justice Scalia called the undue burden standard 'ultimately standardless' and 'inherently manipulable,' with the result that it 'will prove hopelessly unworkable in practice.'"
>
> "*Asking whether a state interest in protecting fetal life or ensuring informed decisions about abortion outweighs any burdens on the abortion decision is like asking 'whether a particular line is longer than a particular rock is heavy.'"*
>
> "When the lower courts cannot consistently apply—or even understand—a standard after nearly thirty years of development, something is wrong."
>
> "Casey's failure to provide adequate guidance for state legislatures has led national abortion rights organizations to immediately file for an injunction any time a law protecting prenatal life is enacted—if only to 'give it a try.' See, e.g., Women's Med. Prof'l Corp. v. Voinovich, 130 F.3d 187, 218–19 (6th Cir. 1997) (Boggs, J., dissenting) **("The post-Casey history of abortion litigation in the lower courts is reminiscent of the classic recurring football drama of Charlie Brown and Lucy in the Peanuts comic strip."**

Law can't have "saving lives" as its purpose

Planned Parenthood of Southeastern Pennsylvania v. Casey (1992) "An undue burden exists, and therefore a provision of law is invalid, if its purpose or effect is to place substantial obstacles in the path of a woman seeking an abortion before the fetus attains viability."

(For commentary, see previous entry.)

Legalizing Sodomy

Lawrence v. Texas (2003) "The liberty protected by the Constitution allows homosexual persons the right to choose to enter upon relationships in the confines of their homes and their own private lives and still retain their dignity as free persons." (Still in effect.)

Had SCOTUS stuck to its 14th Amendment authority it never would have taken the case, because the reason the case existed was to challenge state laws which outlawed a behavior not only criminalized by the Bible, but which spreads the worst of diseases, cuts human lifetimes twice as short as smoking (about 7 years for smokers, about 15 years for sodomites), raises children in a high suicide and crime environment, and can't just keep to itself but which flaunts its perversion as publicly as it can get away with, even suing people out of their livelihoods just for declining to publicly "affirm" them.

Isaiah 3:9 For the look on their faces bears witness against them; they proclaim their sin like Sodom; they do not hide it. Woe to them! For they have brought evil on themselves. (ESV)

The 14th Amendment gives SCOTUS no authority to invent "rights" to commit disease-breeding practices that are so disgusting that if you describe them in public even their supporters are angry at *you* for talking such filth! 14th Amendment authority is limited to protecting rights listed in the Constitution. Sexual perversion isn't among them. 14th Amendment authority is also limited to enforcement by Congress, and Congress never moved to legalize sodomy.

Although now that society has been so poisoned by courts on the subject, Congress surely *would* protect sodomy now, if courts withdrew their support. Except that not even Congress has authority from the 14th Amendment to force states to honor rights not found in the Constitution.

So when Christians finally shove SCOTUS back to its constitutional authority, states will absolutely regain the right, once again, to outlaw sodomy, and also to keep from enabling it more, just as much as their voters will permit.

Establishing Sodomite "Marriage"

Obergefell v. Hodges (2015) "The Fourteenth Amendment requires a state to license a marriage between two people of the same sex and to recognize a marriage between two people of the same sex

when their marriage was lawfully licensed and performed outside the state." (Still in effect.)

(For commentary, see previous entry.)

Voters decide whether to slaughter babies based on babies' "value" to voters

Dobbs v. Jackson Women's Health Organization (2022) "The Constitution does not confer a right to abortion, and the authority to regulate abortion must be returned to the people and their elected representatives." This decision overruled *Roe* and *Casey.* (Still in effect.)

This ruling declares that "our decision is not based on any view of when prenatal life as having rights or legally cognizable interests", rejecting Congress' finding that "prenatal life" "at every stage of gestation" *does* have "legally cognizable interests", which makes killing babies legally recognizable as murder. Congress did not at that time challenge SCOTUS by criminalizing abortions protected by SCOTUS, but the declared the fact that justifies outlawing all abortion, and protected as much as they thought they could. See Finding #7, concerning 18 U.S.C. 1841(d).

This case overturns two previous cases which never would have existed had SCOTUS limited itself to its constitutional authority, so this case would likewise have never existed.

Before SCOTUS added infanticide to its list of Landmark Abomination Cases, states had taken a variety of positions on the right to life of babies. Congress had not previously taken a position on the issue. It could have then, and can now, outlaw all abortions; everyone today acknowledges that power, now that SCOTUS has stepped aside.

But most people today imagine that SCOTUS has the equal 14th Amendment authority to *legalize* abortion up until voting age, if they want. Not so, if Congress sticks to its 14th Amendment authority, which is to correct state violations of the rights of their citizens. 14th Amendment authority does not extend to forcing states to *violate* the right to life of babies. The right to murder your own baby is not listed in the Constitution.

Student Punished for Telling the Truth

Current Case. 8/21/2023 email: *Alliance Defending Freedom*

School officials at John T. Nichols, Jr. Middle School in Middleborough, Massachusetts say they want to create an environment of non-discrimination—but when Liam, in 7th grade, wore a T-shirt to school that read "There are only two genders," the principal of the school and a school counselor pulled Liam out of class and demanded that he take off his shirt. They even said that if he didn't remove his shirt, he would be sent home.

Liam missed the rest of his classes that day. He refused to deny what he knew to be true.

Even after Liam's attorney sent a letter to school officials in which he informed them of the constitutional violation, school officials refused to apologize. They even said they would continue to prevent Liam from wearing his shirt.

Soon after this incident, Liam wore another shirt to school that said "There are censored genders," to protest the fact that his school wouldn't allow him to express his beliefs. Immediately, Liam was sent to the principal's office and was told he wasn't allowed to wear that shirt either.

Since then, Liam hasn't been permitted to wear either of these shirts even though he hadn't received any opposition from his classmates, nor had he ever created disruption. In Liam's words, "Everyone was actually extremely supportive of my decision." School officials, on the other hand, were not in favor of Liam expressing his opinion. In fact, officials opposed Liam's speech so much that one official went to Liam's bus stop to make sure that he was not wearing a shirt that the school did not approve.

In May 2023, ADF attorneys filed a lawsuit against Nichols Middle School. In this lawsuit, attorneys asked the court to rule that the school must halt its violation of Liam's rights and allow him to wear the shirt to school as the lawsuit moves forward. But the court denied this request.

Middleborough school's actions against Liam are unconstitutional. Liam was simply expressing his beliefs, grounded in scientific fact.

Liam has been a student of Middleborough Public Schools since kindergarten, and lately he's seen school administration endorsing ideas about identity that he doesn't believe. The school even hosted a "Pride Week" during the month of June during which middle schoolers were encouraged to celebrate radical ideologies.

Liam respects free and open debate at his school and did not even protest the school's "Pride Week"—he merely wanted to contribute to the ongoing conversation about gender at his school.

Author George Orwell once said that "In a time of deceit, telling the truth is a revolutionary act."

Liam's brave expression of his belief might as well have been a revolutionary act—based on their reactions, school officials certainly seemed to think so.

That Middleborough school officials would react with such opposition to Liam's rights and target him on account of his peaceful expression shows just how much we all need to stand for First Amendment rights. If a polite and admirable middle schooler could be silenced so immediately for simply wearing a shirt, who cannot be silenced?

Luke 11:5 And he said unto them, Which of you shall have a friend, and shall go unto him at midnight, and say unto him, Friend, lend me three loaves; 6 For a friend of mine in his journey is come to me, and I have nothing to set before him? 7 And he from within shall

answer and say, Trouble me not: the door is now shut, and my children are with me in bed; I cannot rise and give thee. 8 I say unto you, Though he will not rise and give him, because he is his friend, yet because of his importunity he will rise and give him as many as he needeth. 9 And I say unto you, Ask, and it shall be given you; seek, and ye shall find; knock, and it shall be opened unto you.

Jesus illustrates how God answers prayers even when He has reservations about them. 1 Samuel 8 is where the people insisted on replacing elections of their own leaders (see Deuteronomy 1:13) with a dictator. God warned them how dumb that was, but the people insisted, so God let them have their dictatorship.

Job 1-2 showed God even answers some of Satan's prayers!

Why does God give people, good and bad, so much freedom? One benefit for the wicked is that they can experience the evil they thought they wanted and experience how empty that left them.

But why does God let wicked people hurt *us?*

(2 B continued)

2. The satanic "church" lawsuit

& Islamic Female Genital Mutilation:

empowered by court "neutrality" about religion

(The Landmark Abomination Case of the future?)

Courts are "scrupulously neutral" (Justice Kavanaugh's phrase in *Dobbs*) not only about whether the babies whose murders it permits are real people, but also about whether Bible-based practices merit any greater accommodation than the practices of witch doctors or satanists.

The Satanic Temple lawsuit seeking exemption from abortion bans in Texas, Idaho, and Indiana so they can do abortions as part of their "worship", and laws against Moslems cutting off the clitoris of their young girls, are examples of the vulnerability of Freedom for as long as all religions stand equal before courts. The Bible classifies unborn babies and young girls as fully human and meriting equal rights before law as any other human; but not Satanism or Islam. The Satanic Temple dehumanizes unborn babies are mere parts of their mothers' bodies, and the Koran dehumanizes Christians and Jews as apes and pigs, while encouraging sex slavery and counting the testimony of a woman in court as half the credibility of the testimony of a man.

Our definition of Freedom is equal rights of all people groups before the law. The worst of tyrannies allow freedom for *some* groups – to tyrannize others.

Court understanding of "no establishment of religion" is in flux now, with the demise of the "Lemon Test" and the looming demise of *Employment Division v. Smith.* See Chapter 4, "Crumbling Anti-Christian dogmas (*Lemon, Employment Division*); how we can fill the vacuum with Truth. Matthew 12:44"

Chapter 4 develops two defenses which should be allowed in court, and in the Court of Public Opinion:

1. The Bible alone inspired and still supports the essential elements of American Freedom so practices based on it should have the "rebuttable presumption" (a presumption, though subject to scrutiny) of support for America's institutions, unlike practices based on religions and philosophies antithetical to American Freedom.

2. Everyone, everywhere, ought to be free to say what is true, especially when they stand ready to prove it. And free to act according to truth and not nonsense. For example, when masks were required for everyone even though the only two covid-specific RCT's in Netherlands and Bangladesh proved they were useless, yet were enforced not only by law but by moralizing with all the emotion of "blasphemy" charges of the past, while the world's leading experts pointing to facts were censored and fired, I asked for a religious exemption because these factors put masks in the category of idols – false gods – believed in despite irrefutable evidence, and my Bible makes not bowing to false gods Commandment Number One. My defense, that reality has greater authority than law when stupid laws force a choice, should have been honored. http://savetheworld.saltshaker.us/wiki/Forum#Vaccines.2C_Masks.2C_Censors

Chapter 4 also reviews several scenarios of future "religious exemption" applications which current Supreme Court thinking appears unprepared to address, for which Christians need to prepare.

Meanwhile, this Chapter Two will summarize only two examples of religion-fueled tyranny: the Satanic Temple application, and Female Genital Mutilation.

> **"Satanic Temple Sues States for Infringing on 'Religious Abortion Ritual'"**, Newsweek, 10/4/22: "The Satanic Temple is **suing Idaho and Indiana** over their near-total abortion bans, arguing that the laws violate religious freedoms....
>
> "The view of The Satanic Temple is that a fetus is a part of a woman's body,...Restrictive laws also prevent members of The Satanic Temple from holding the 'Satanic Abortion Ritual,' which is fundamental to their religious beliefs...**This ritual, which includes the abortion itself**, is ***designed to cast off the guilt*** *and shame that may be imposed on a woman choosing an abortion....*

1 Timothy 4:1 Now the Spirit speaketh expressly, that in the latter times some shall depart from the faith, giving heed to seducing spirits, and doctrines of devils; *2 Speaking lies in hypocrisy; having their* conscience seared *with a hot iron;*

> "During the ritual, the patient meditates and recites Tenet III and Tenet V of The Satanic Temple Tenets....Tenet III says, 'One's body is inviolable, subject to one's own will alone.' Tenet V says, 'Beliefs should conform to one's best scientific understanding of the world.'
>
> " 'One should take care never to distort scientific facts to fit one's beliefs.' Mac Naughton said. 'And what works for everybody is that **you've got to respect everybody's point of view.** [Except the point of view of babies with souls.] When you start taking your religious principles and forcing other people to live by them, that's not the America I want to live in.'"
> www.newsweek.com/satanic-temple-sues-states-infringing-religious-abortion-ritual-indiana-idaho-1748758
>
> The Satanic Temple stated: "It would be unconstitutional to require a waiting period before receiving Holy Communion; it would be illegal to demand Muslims receive counseling prior to Ramadan. We expect the same rights as any other religious

organization." www.christianpost.com/news/satanic-temple-abortion-religious-ritual-claims-it-provides-spiritual-comfort-to-women.html

That is not only perfectly logical, but irrefutable, in a legal environment proud of how "scrupulous" it is to remain "neutral" not only about baby killing, but also about religions.

Babies and tomatoes are not equal. Books of curses and the Bible are not equal. Holy writings which have been fanatically attacked by scientists yet never *dis*proved in any detail, and unholy writings which have never been challenged and cannot be *proved* in any detail, are not equal. The Bible, which inspired all the essential elements of American freedom and still supports American institutions as no other religion or philosophy does, are so *un*equal to reality-challenged religions that courts *must* accept the rebuttable presumption that an accommodation of a Bible-based claim is less likely than claims based on other religions to result in anarchy or the disruption of any compelling government interest, and in fact will serve the "compelling government interest" of encouraging respect for itself which results from honoring government's greatest cheerleader, the Bible.

Holy Communion doesn't murder anyone. Although it is called the literal blood of Jesus, it kills no human but only saves human souls. Ramadan? Well, our laws let Moslems *believe* they should go out and slaughter "disbelievers", so long as they don't *do* it.

https://thesatanictemple.com, accessed May 15, 2023: Abortion Access After Roe v. Wade – The Satanic Temple is the leading beacon of light in the battle for abortion access. With Roe v Wade overturned, a religious exemption will be the only available challenge to many restrictions to access. TST stands alone because **we are the only entity that can assert a religious liberty claim that terminating a pregnancy is a central part of a religious ritual** that encourages self-empowerment and affirms bodily autonomy. This means that **the imposition of waiting periods and mandatory counseling is akin to demanding a waiting period and counseling before one can be baptized or receive communion.** Clearly, *that* would be a violation of religious liberty.

While the SCOTUS decision [that overturned Roe] is clearly a major set back, the Supreme Court has repeatedly affirmed religious rights. The Satanic Temple is currently suing

the state of Texas to protect our civil rights. Our Texas claims are untethered to the due process Clause [of the 14th Amendment]. They are a direct interpretation of the right of conscience in the Free Exercise Clause [of the 1st Amendment].

In a court which treats Judeo/Christianity and Satanism as equals and which remains "scrupulously neutral" about whether babies of humans are genuine "human persons", that seems like a pretty compelling argument.

So far the Satanic lawsuit has been dismissed, but not because satanism doesn't merit the same standing before American law as the Bible. Not because babies of humans are real humans. Not because satanism is a reality-challenged pack of lies which are antithetical to American freedom, the central pillar of which is equal rights for all.

The judges complaints about relatively trivial problems with the lawsuit indicate the satanists would have succeeded with a better lawyer.

> The Satanic Temple's lawyer obviously did not take the case any more seriously than the Satanic Temple—which has stated that it doesn't really believe in Satan—takes itself. Judge Eskridge went out of his way to slap down plaintiff's counsel by name... Judge Eskridge found that the lawsuit was filed in bad faith (doubtless as a publicity stunt), and dismissed the complaint with prejudice: ..."Given the detail of the prior complaints and these substantial changes in the law, the deficiencies in the operative complaint are no doubt intentional. And indeed, the filing of a willfully deficient amended complaint is of a piece with the mulish litigation conduct by counsel for Plaintiffs, Attorney Matt Kezhaya, in this and other actions representing The Satanic Temple. Recently considered in this regard was whether to revoke his permission to proceed pro hac vice [to appear in a jurisdiction in which the attorney is not licensed] in light of sanctions entered against him in other federal courts after his appearance here." www.fulcrum7.com/news/2023/7/17/judge-dismisses-satanic-temples-challenge-to-texas-abortion-laws
>
> Monday, July 24, 2023 The suit was "spare and unusually cryptic", the judge said. After the complaint was amended three times, it still remained "willfully inadequate and deficient". "It fails for jurisdictional reasons and would also likely fail for

> insufficient pleading of the merits." [For example] "the judge acknowledged that TST claims that it's a religion but wrote that the group did not thoroughly explain its belief structure and how Texas' laws interfere with the religion." The supposed "religious statutes" aren't specified or explained in any way. Neither are "the Seven Tenets" or "the ritual." And no congregant is mentioned by name or description, including Ann Doe....TST's complaint did not show how the "unspecified religious statute" is directed at the group, nor does it prove how the group has been prevented from engaging in a specific sort of action. "Instead, it asserts only that 'the congregants tried to engage in the ritual' but were 'unsuccessful.' " www.christianpost.com/news/satanic-temple-lawsuit-against-abortion-ban-dismissed.html

In other words, the lawsuit was *not* dismissed because satanism is a reality-challenged fraud which is antithetical to American Freedom and equal rights, or because Human Sacrifice is the worst of crimes and abominations for which courts should make any exception.

The lawsuit *would* have succeeded had its language been plainer and more standard, with a description of rituals, beliefs, and congregations that sounds more like a centuries-old genuine pagan religion. Rituals and dogmas didn't have to be true or good, just detailed.

Their leader gave a warning to Christians that is probably correct: that Christians should not gloat over this precedent, because it is a precedent for courts to scrutinize applications from Christians also, demanding, and judging, more details about beliefs and practices.

Their current lawsuits are listed at www.thesatanictemple.com/pages/legal-action

Wikipedia describes

* their 2013 rally supporting a Florida law allowing student-led prayer at school assemblies because then children could pray to Satan in schools.

* "After School Satan" clubs to compete with "Good News Clubs".

* Successful satanic displays and statues on public property under the court precedents that permit nativity scenes.

* An invocation at a city council meeting, ongoing dispute.

The articles did not specify whether the lawsuit asked only for an exception so satanists could murder their babies, or whether they

were challenging the whole law banning abortion, to overturn it for everybody. If their goal was to overturn the law, they weren't the first to go that far with a "religious" objection.

October 23, 2023 text message from Students for Life:

> It's no secret that the devil and his followers LOVE abortion. Last year, New Mexico Gov. Michelle Lujan-Grisham's 'Abortion Hotline' was caught using TAXPAYER DOLLARS to refer women to the Satanic Temple for abortions.
>
> In 2022, California Gov. Gavin Newsom promoted his state's extreme abortion policies on Texas billboards using SCRIPTURE to make it appear that abortion can coincide with Christian theology.
>
> Now, even more pro-abortion billboards have begun popping up along I-55 from Louisiana to Illinois saying, 'God's Plan Includes Abortion.'
>
> When I saw this, it reminded me of Matthew 4:6, where the devil tries, and fails, to use Scripture to tempt Jesus to sin. Satan's tactics haven't changed. -Kristan

The Jewish Coalition For Religious Liberty warned in its amicus brief in Dobbs v. Jackson about "a novel view under which their religious views would dictate what laws may govern every American, even those with different faiths or no faith at all." [www.supremecourt.gov/DocketPDF/19/19-1392/184865/20210726093205304_19-1932%20Amicus%20Brief%20of%20Jewish%20Coalition%20for%20Religious%20Liberty.pdf]

JCRL noted a 1992 amicus by Planned Parenthood that didn't just ask for an exemption from a law, but for the repeal of a law that someone doesn't believe in: "in the face of the great moral and religious diversity in American society over abortion and in the light of Jewish traditions which in some cases command abortion, and in many others permit it, the existing constitutional rules, set down by Roe v. Wade, should be maintained ... ." JCRL said "Under the religious-veto view of the Free Exercise Clause, every decision in favor of a religious adherent would entirely foreclose the state from pursuing its chosen interests."

JCRL is concerned about *Employment Division v. Smith,* 494 U.S. 872, 888 (1990), in which two natives working for a drug rehabilitation program were fired for smoking illegal peyote at a religious event, and their applications for unemployment compensation

were denied. (They were fired for using an illegal drug, from their jobs as drug counselors.) SCOTUS agreed with that denial, fearing that accommodating them would be "courting anarchy". Examples in the ruling: the military draft, drug laws, paying taxes, child neglect laws, vaccination laws, traffic laws, minimum wage, child labor, animal cruelty, environmental protection, and racial equality. Religious exemptions have been sought in all those areas. JCRL thinks *Employment Division* was too strict, and is glad that "this Court has recently loosened Smith's strictures, and has signaled that it may reconsider them entirely." But JCRL is concerned about going beyond a religious exemption for an individual, to what Planned Parenthood asked: invalidation of a law for everyone because a few don't believe in it.

Not that there is a stark difference for you if you are a baby about to be murdered, whether your murderer's "religion" is as bound for Hell as your murderer.

True religion prohibits individual murder and mass murder alike. True religion is against individual "religious" exemptions for satanists to murder babies. It is against legalizing murdering babies for everyone.

The legal antidote is robust affirmation of the consensus of court-recognized Fact Finders that babies are people, which makes killing them legally recognizable as murder, which the 14th Amendment doesn't let *any* state legalize.

But if law favors "true religion", what about equal protection for the rights of false religions? Shouldn't jihadists have equal rights to behead Christians, do "honor killings" of their wives and daughters if they are raped, and keep sex slaves? What about the rights of pedophiles to rape little boys? And the rights of sadists to torture people during sex? Or the rights of kleptomaniacs to shoplift? Or the rights of satanists to sacrifice babies and children, along with adult women? Or the rights of Hindus to burn widows alive on their husbands' funeral pyres? Or the rights of cannibals to eat you? Don't they have a right to their religion too?

How has America made it this far with such questions unclear?

Female Genital Mutilation. Aug 9, 2023 Liberty Council email:

FGM is a standard practice in many African countries where the sexual organs of young females are sliced off in adherence to Islamic

practices. The Shafa'll school of Sunni Islam and the Bawoodi branch of Shia Islam require all women undergo FGM. The Maliki, Hanafi, and Hanbalu schools of Sunni Islam teach that FGM is a "virtue."

However, a **U.S. district judge overturned the 1996 ban** in 2017. Shortly thereafter, Rep. Sheila Jackson Lee (D-TX) took action to protect young women, sponsoring the bipartisan bill "Stop FGM Act of 2020." Former President Donald Trump signed the bill into law January 5, 2021.

As a result, 18 US Code Sec. 116 prohibits Female Genital Mutilation, making it a federal felony, punishable by fines and up to 10 years in prison for aiding and abetting genital mutilation or removal surgery in girls under the age of 18. The law specifically notes that hospitals, doctors, people who transport a minor to surgery, and even parents who authorize the surgery are guilty of a felony, punishable by fines and prison.

Even the U.S. State Department warns against FGM, saying in part:

"The U.S. Government opposes FGM/C, no matter the type, degree, or severity, and no matter what the motivation for performing it. The U.S. Government understands that **FGM/C may be carried out in accordance with traditional beliefs and as part of adulthood initiation rites. Nevertheless, the U.S. Government considers FGM/C to be a serious human rights abuse, and a form of gender-based violence and child abuse."**

FGM is also banned in 41 states, many with higher penalties than the federal law. In Virginia, for instance, FGM practitioners face up to 100,000 dollars in fines and life in prison.

The federal law specifies, "It shall not be a defense to a prosecution under this section that female genital mutilation is required as a matter of religion, custom, tradition, ritual, or standard practice." In fact, the ONLY allowance federal law makes is if FGM is "necessary to the health of the person on whom it is performed."

The preceding were quotes from the Liberty Council email. Absent was any concern for the danger that courts will take another look at the ban and decide it violates "freedom of religion". The Liberty Council focus was, instead, on the opportunity they see in using that law to attack surgeries that pretend to change gender:

> Child Sex-Change Surgeries are, by definition, Female Genital Mutilation, and they are not medically necessary. But

> that's not stopping hospitals and surgeons from cashing in. The social media-driven wave of "gender dysphoria" diagnosis has created a cash cow for those willing to slice healthy tissue and organs from troubled adolescents.

Liberty Council warned of danger alongside opportunity: HR15 would make gender surgeries mandatory:

> HR 15 would MANDATE that hospitals and medical professionals be COMPELLED to participate in child mutilation. And HR 15 revokes religious protections under the Religious Freedom Restoration Act.

This Challenge Needs Answered

The Lord's Prayer Recited During School Board Meeting After Prayer Deemed 'Not Permitted
https://joemessina.com/2023/09/the-lords-prayer-recited-during-school-board-meeting-after-prayer-deemed-not-permitted/

The woman addressed the Suffolk school board during the public comment portion of the Aug. 10 meeting and requested to use her time at the microphone to offer a prayer for Suffolk Public Schools with all those present. However, Board Chair Tyron Riddick interjected with a polite reminder that such an action was not permissible.

"Why can't we?" the woman asked Riddick. "I'd like to pray for our students in our school."

Riddick replied that prayer wasn't what she "signed up to do" and asked her to "get back on to your topic."

"That is my topic sir," the woman told Riddick.

"Well, then, it's not permitted at this time," Riddick responded.

"To pray for our schools is not permitted?" she asked.

"That's correct," Riddick answered again.

The woman invited those in attendance to join her in prayer outside the building after the board meeting, noting that she believed "the only way that we're gonna come together is through God and our

faith." Additionally, she asked God to place those "working for children" in the district "for any other reason … under conviction."

After Riddick questioned whether such prayer was permissible at this public venue, a number of people stood up and began reciting the Lord's Prayer.

In response, Riddick called for a meeting recess and banged his gavel. It appeared that another board member then instructed him to "ask the officers to remove" those who were praying.

After the prayer was finished, two police officers were seen approaching the front of the public area of the meeting room. It is unclear if anyone was asked to leave or not. Thereafter, Riddick addressed everyone again.

"I believe in abiding by a book that is very influential, and it says to be decent and in order, and we have to be mindful that we don't cherry-pick the book," he told the crowd, presumably in reference to 1 Corinthians 14:40 in the Bible. "But conduct unbecoming will not be tolerated, since it's not a place to grandstand. We're here for business, and if we're truly about our Father's business, we would be decent and in order. We can respectfully disagree, and if we fall short, we can repent."

Following the recess, Riddick resumed discussion regarding the prayer that had occurred during the gathering.

"What was witnessed tonight … could be a violation of other persons' rights … everybody has a right to choose their own religion [in America]. **And if we allow a Christian prayer to proceed, what do we do if a Satanist was to come in and say, 'I want to pray as well'? We have to respect everyone's rights."**

Riddick added that **if the board allowed any one prayer, it would invite individuals of any faith to do so. He went on to express that although Christian values should be upheld, the best way for religious beliefs to be projected is through ethical and moral actions.**

He concluded by emphasizing the importance of being quick to acknowledge and correct any shortcomings in order to move forward....

Never mind the hypocrisy of saying the reason we can't allow Christian prayer is that then we would have to allow satanic prayer, which is a horrible enough probability to prohibit Christian prayer – because were a satanist to offer prayer, the school board would all join along and say "Amen". (Or "Nema", which is "Amen" backwards.)

They force sodomy on their children, which is the work of satanists.

Never mind that Riddick's method of "respecting all beliefs" was to censor all – to respect none.

Never mind that. The threat needs an answer, because it was not answered, and I have never heard anyone give an answer even though I have heard this excuse for decades, and this excuse has silenced Christian freedom of religious expression for that long.

If no one has a different answer, here is The answer:

> *The only excuse for giving satanists equal rights as Christians is a mangling of the 1st Amendment prohibition of "establishing" a religion. That is a legal reason – a courtroom argument. Therefore the answer must survive a courtroom. The answer that will, is that it is a "legitimate government interest" to welcome speech which affirms essential freedoms and respect for its laws, while avoiding facilitation of speech which attacks its very existence. Satanists can still speak on their own dime, although they should still be subject to laws against conspiracy and against fraud. The courtroom evidence supporting the application of this principle to Christian vs. satanic speech should be Scriptures that were the basis of our most essential freedoms and the broad outlines of our laws, compared with satanic theology which supports the opposite.*

The hypocrisy: why do you allow Islam, Communism, Sodomy, and everything BUT the Bible?

Question: how do we welcome Christian expression, or more specifically, Bible quotes, without welcoming quotes from the Koran, Communist Manifesto, etc?

Irony of misusing equal rights for all to promote destruction of equal rights for all. Because when any other religion dominates, there will be no freedom of speech or religion, or equal rights.

Incitement to violence; the right to peacably assemble is not rioting with massive property destruction. Being "offended" by true statements does not justify violence.

Mailing from Aipac.org, July 2023, excerpts from opposition to taxpayer funds to the United Nations which supports antisemitic textbooks in Palestinian schools:

Rep. Brad Sherman (D-CA), who sponsored "The Peace and

Tolerance in Palestinian Education Act": "American dollars must be spent in a way that reflects American values of tolerance.."

Rep. Brian Mast (R-FL): "Hate and intolerance are learned behaviors, and there's aboslutely no reason that US taxpayers should be funding that type of instruction. This bill can help break a generational cycle of hatred...."

Rep. Josh Gottheimer (D-NJ): "It is essential that the United States plays a role in eliminating the incitement of violence and delegitimization of Israel present in UNRWA curricula."

Rep. Elise Stefanik (R-NY): "UNRWA's incendiary curriculum has violent consequences, and we cannot allow American taxpayer dollars to continue to fund this anti-Semitic education."

How much more is it a legitimate government interest to end taxpayer funding of hate and incitement to violence in American public schools?!

AIPAC background: "The United States provided 4344 million last year to the U.N. Relief and Works Agency, the United Nations entity that publishes many of the textbooks for Palestinian children."

One of the four examples given in the cover letter: "Fifth graders also have Islamic education drills, that teach students how 'angels will drag infidels (Jews and Christians) by their hair to hell, as a punishment from God.' "

https://cogentreach.com/us-veteran-snaps-after-dems-allow-muslims-to-pray-against-infidels-in-the-senate/

in Weird World

US Veteran Snaps After Dems Allow Muslims To Pray Against 'Infidels' In The Senate

Posted byby Staff
September 11, 2023\

Dave Lawson, a veteran of the United States Air Force and a Delaware state senator, had a strong disagreement about the Quran being read before a Delaware state senate meeting. During his service in Vietnam, Dave fought for his country and didn't view the Muslim prayer as

acceptable.
“We just heard from the Quran, which calls for our very demise,” he said in protest, further noting that it was “despicable.” His sentiments were caught on camera, although the criticism he received for speaking out was not.

The response from the Delaware Senate President Pro Tempore, David McBride (D-New Castle), was a sharp rebuke of the veteran’s stance. “I have never been of the mind to censure the words of other members, but I also believe deeply that words have consequences,” McBride said. “To criticize the sacred prayer of another religion from the floor of the Senate strikes me as antithetical to everything we ought to stand for as lawmakers.”

McBride continued with his offense, taking his comments furth by referencing the First Amendment of the Constitution. “I am personally offended that our guests from the Muslim community and anyone else here in the chamber today would feel anything less than welcomed with opened arms,” he said. “And for our guests, today to be branded as anti-American when our First Amendment of our country’s Constitution explicitly guarantees the freedom of religion is both ironic and deeply sad to me.”

In response, Lawson informed McBride that he was “ignorant to what’s going on.” The senator responded that he was “hopeful we can move past this sad chapter in the body’s history.”
Sept 12 2023 mailing from Citizens United Foundation promoting “Torchbearer”, a film about religious expression in the “public square”:

Job 3:25 For the thing which I greatly feared is come upon me, and that which I was afraid of is come unto me.

Revelation 21:8 But the fearful...shall have their part in the lake which burneth with fire....

1 Peter 1:7 (ERV) These troubles test your faith and prove that it is pure. And such faith is worth more than gold. Gold can be proved to be pure by fire, but gold will ruin. When your faith is proven to be pure, the result will be praise and glory and honor when Jesus Christ comes.

Job "greatly feared". What? We have clues. Job obsessively sacrificed on behalf of his children, "for Job said, It may be that my sons have sinned, and cursed God in their hearts. Thus did Job continually." Job 1:5. Although that isn't the evil that he said "has come upon me".

Did Satan articulate Job's lack of faith that he could survive testing? Job 1:9-11, 2:4-5. Testing had certainly come upon him!

How could God heal Job's fear? By letting experience what he most feared so he could see God was there also, helping him survive, and even giving Job, in the midst of what he most feared, what he most desired! A direct conversation with God!

Hebrews 12 compares the discipline of children by their parents with God's work on us. Correction isn't comfortable, but it proves God's love. The last verse is "God is a consuming fire."

So we learn to fear nothing else but God Who decides what experiences will most benefit us. We are better off ignoring a charging lion than ignoring a call from God. So what does God call us to do?

(2 B Continued)

3. 'Substantive Due Process': how SCOTUS usurped the Constitution's Authority to Define Rights, and Congress' Authority to Enforce Rights, into its own authority to reclassify abominations as 'rights'

Adding the last paragraph of Finding #12 to the findings of a prolife law will knock down a hornet's nest bigger than abortion, but also deadlier physically and spiritually, because it is the nest of almost every Precedent from Hell that has attacked and still threatens America, beginning with a defense of the 300 "white supremacist" Democrats who murdered over 150 mostly black Republicans and burned down the courthouse they were defending, after Democrats had tried to seize the courthouse by voter fraud. See *Cruikshank* (1876) and the *Civil Rights Cases* (1882).

> Finding #12, last paragraph: *This state also appeals to its congressional delegation to exercise its life-saving and rights-protecting authority under Section 5 of the 14th Amendment whose* ***plain words give Congress, not courts, the authority to correct state violations of rights,***[4] *which subsumes the authority to define their scope and balance competing interests, while the "privileges and immunities" clause identifies as protectable rights those listed in the Constitution.*
>
> Finding #11, last paragraph: *The prohibition of tyranny over any class of humans by any other has greater authority than that of the Constitution: it is also the command of the Declaration, which lays out the purpose of the Constitution, and rests its own authority on the revelation of God*[5] *in the Bible.*[6] *Without God it is impossible to understand fundamental rights,*[7] *as courts have so magnificently demonstrated by so often confusing abominations for rights, decimating those whom Jesus said "forbid them not to come unto Me", denying that He created*

them, murdering 17% of them, sodomizing 20% of the survivors, and censoring 100% of His teachings in schools.[8] That began with the development of ***the principles of "Substantive Due Process"*** *in United States v. Cruikshank 92 U. S. 542 (1876), which were applied in that case to acquit a white Democrat mililtia of murdering "as many as 165" black Republicans and burning down the courthouse they were defending.*

Justice Thomas has already softened the resistance with his concurrence in *Dobbs v. Jackson*, in which he cites his writings on the subject in other cases. A few of the 140 amicus briefs filed in that case offer further light. An earlier analysis was made years ago by professor Nathan Schluetter, who even sparred in print with Judge Bork.

The very fact that abortion was the worst of the ways the United States Supreme Court has turned American law upside down creates an opportunity to heal that branch of our government, and heal all the harm to our nation and its culture and morals that it has caused. As Professor Schluetter observes, "We must not let this opportunity pass to boldly challenge the prevailing jurisprudence and its attendant epistemological and moral skepticism with respect to abortion."

Authority to Define Constitutional Rights, and to Make States Protect them, Belongs to *Congress*, Not *Courts*

According to the 14th Amendment, Section Five

Here is Section One and Five of the 14th Amendment. Lawyers name the four clauses of Section One by their key phrases: the "citizenship clause", (which is presumed to protect only people who

have been born); the "privileges and immunities", clause, (which identifies the rights which the Amendment protects: the rights listed in the Constitution according to the Amendment's authors, although SCOTUS treats it as dead letters); the "Due Process" clause, (which originally meant no one should have more hoops to jump through than "important" people, to defend themselves in court, but which SCOTUS turned into authority to make up whatever rights it likes); and the "equal protection" clause, which is pretty self explanatory.

Then there is Section Five which clearly gives Congress, not courts, authority to enforce the Amendment.

*Section 1, 14th Amendment: 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. No State shall make or enforce any law which shall abridge the **privileges or immunities** of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without **due process** of law; nor deny to any person within its jurisdiction the **equal protection** of the laws.*

*Section 5: "**The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.**"*

The power to enforce the right of every person to live (which Section 5 of the 14th Amendment assigns to Congress) necessarily includes the power to define who is a person, wouldn't you think?

Professor Nathan Schluetter writes: "**Congress is clearly given the power in Section Five of the Fourteenth Amendment to remedy both hostile state action and state failure to secure the constitutionally protected rights of persons.** The unborn person reading would make it constitutionally incumbent upon states to secure the basic rights of all persons in their jurisdiction without discrimination, and would enable Congress to pass remedial legislation protecting those same rights in states that fail to do so. ... **We cannot**

afford to feign skepticism (pretend not to know**) about the personhood of unborn children** any more than an earlier age could afford to feign skepticism about the personhood of African-Americans." www.firstthings.com/article/2003/01/ constitutional-persons-an-exchange-on-abortion

One other legal sophistry that is invoked to deny 14th Amendment protection of babies' right to life is the theory that Section Five does not empower Congress to regulate *private* conduct – crimes by *individuals* – but only crimes of *state and local government* actions. See the Civil Rights Cases (1882), and United States v. Morrison (2000).

It is hard to believe such silly reasoning could last a century and a half without being discredited, but Judge Robert Bork (1927-2012), debating Schluetter, didn't think *judges* can "regulate private conduct" either: he wrote "the due process clause limits governmental action and not the actions of private individuals. Abortions are killings by private persons."

Erwin Chemerinsky, Dean of Berkeley Law School, disagrees with this principle invented by these SCOTUS precedents: "violations of rights by private actors occur precisely because state and local governments have failed to prevent them. Congress, in preventing discrimination or violation of rights by private entities, is remedying the failures of state and local governments. This is exactly what the power under Section Five exists to accomplish."

In other words, when a state law against murder exempts unborn babies from protection, isn't that exemption in the law a "state action"? Isn't a deliberate "crime of omission" still a crime?

https://thelawdictionary.org/crime-of-omission/: "an offense that is categorised by a person's failing to perform an act that is required."

Bork's sophistry (though in fairness he was only parroting a century of SCOTUS precedents) is easily disproved by the fact that slavery likewise was the crime of private slave owners – governments didn't own slaves. Or if any did, that was a minuscule part of the evil. Yet the 14th Amendment was created to end slavery.

Chemerinsky lists a second way SCOTUS has emasculated Section 5: "In *City of Boerne v. Flores* (1997), the Court ruled that **Section Five does not empower Congress to create new rights or expand the scope of rights; rather Congress is limited to laws that prevent or remedy violations of rights recognized by the Supreme Court**....This significantly and unjustifiably limits congressional power.

Applying this test, courts have declared unconstitutional federal laws expanding protection for religious freedom, making state governments liable for age and disability discrimination in employment, and allowing state governments to be sued for patent infringement."

One reason given for denying that Section 5 gives Congress power to enforce the 14th Amendment is the silly idea that Congress would then have to make every state law related to equal protection, not just occasional laws to "remediate" discrimination as it turns up. This excuse doesn't consider the possibility of Congress passing only "remediation" laws. In fact, virtually every law ever written by a human likely began as a "remediation" law. That is, it was not drafted until someone got hurt, and people decided that offense ought to be discouraged from being repeated.

"Remediation" is what courts do now, having usurped Congress' power to do so. If it is possible for courts, why not Congress? Congress is able to process a volume of issues far better than SCOTUS: it processes between 10,000 and 20,000 bills a year and enacts maybe 1,000 of them (https://www.govtrack.us/congress/bills/statistics) while SCOTUS receives 8,000 appeals a year and only considers about 80 of them. https://www.supremecourt.gov/about/faq_general.aspx

Courts do not "make every law" defining and enforcing fundamental rights. They are "only" a double check, stepping in when a violation of rights seems to them egregious. That seems to be the role given by Section Five to Congress.

But not to courts. Congress, in authoring the 14th Amendment, did not give that ultimate power over states to federal courts because an evil SCOTUS precedent was most of the reason the 14th Amendment had to be created, and even that couldn't happen until after a war which cost 750,000 lives. www.history.com/news/american-civil-war-deaths

Congress had learned not to trust courts with rights. Courts were on the side of *squashing* fundamental rights. That is, in the view of the Republican party, though not in the view of the Democratic party which understood only the fundamental rights of masters to own slaves.

Today the same political party which found courts their enemy in the protection of the fundamental right to liberty for blacks, finds courts their enemy in the protection of the fundamental right to live for babies, while the same political party

which thought owning slaves was a virtue then, thinks murdering babies is a virtue today. A century and a half later, courts still prove the inferior partner in the protection of fundamental rights, leaving us no reason to accept the continuing emasculation America has suffered of Section 5.

Maybe it is because the less accountable to voters that authorities become, the farther they can sink in sin without anyone able to stop them. Voters whose hearts are *not* closed to the cries of 65 million slaughtered need to hold courts accountable – there are many ways – and restore the balance of power that is explicit in Section 5 of the 14th Amendment.

Courts tell you they are the superior partner in protecting rights *because* they are immune to the shifting priorities of the public. Insulated from populist pressures they are free to focus on the Constitution.

That would be fine if they were willing to follow the Constitution. But they make themselves immune to *its* pressures also.

Section 5 gave enforcement authority to Congress, not courts, after what courts did to slaves, before anyone could foresee what they are still doing to babies.

The 14th Amendment expanded the power of *courts,* we are told, to overturn state laws which violate "fundamental rights". It made slave-loving southern state legislatures accountable to *courts,* courts tell us. Well,

1. SCOTUS has no power over states except to document states' violations of federal laws.

2. SCOTUS still uses its power over states that it never had to stop states from protecting the constitutional rights of their citizens.

3. "Fundamental rights" isn't even a constitutional concept! The phrase "*constitutional* rights" *should* mean the rights – the "privileges and immunities" – listed ("enumerated") in the Constitution, but what SCOTUS' list of what it calls "fundamental rights" is far from the

rights listed in the Constitution, and often is at war with genuine *constitutional* rights. Like the "fundamental right" to murder your own baby, or for men to marry men!

Did the Amendment's framers really fail to address what to do when it is *courts* which violate fundamental rights? Had the framers in 1868 forgotten so soon what the Supreme Court did in 1857 which yanked the country towards Civil War? (The *Dred Scott v. Sandford* decision which classified black human beings as "property".) Did the framers leave no remedy for babies today, who *still* suffer under the 1973 decision responsible for 60 million murders because *Dobbs v. Jackson* still dodged the fact that babies are people, which makes killing them legally recognizable as murder, which voters *don't* get to legalize?

The Amendment solves that evil too. "The *Congress* shall have power to enforce, by appropriate legislation, the provisions of this article." And what a simple matter for Congress to restrain courts to their Constitutional authority, by simply following the Constitution:

...the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make. (Article III, Section 2.)

All Congress has to do is restate Section 5 of the 14th Amendment, and maybe add, "Seriously. Can you read? You were never given authority to stop states from protecting the constitutional rights of their citizens. Nor has your misuse of this authority you never had earned it for you. Stop it! Stop making up 'rights' from Hell that drag our whole culture towards Hell! This Amendment creates NO federal authority to stop states from protecting Constitutional rights. It gives US, not YOU, authority to stop states from *trampling* Constitutional rights. Your role is solely to document violations of laws WE pass, and only in that sense to authorize *enforcement.* Keep this up, and *we* will have to take you to *our* court." (Impeachment, in case you missed that allusion.)

How opposite that is to the powers which the Supreme Court has assumed, to even overturn the laws of Congress which the Court

imagines violate fundamental rights! The 14th Amendment gives jurisdiction over state legislatures to Congress, not courts. *Courts* are made subject to *Congress* by the Amendment

And yet courts assume *Congress* is made subject to *courts!* And not just to the Supreme Court but to any sympathetic district judge that some *New Made-Up Rights* advocate can locate.

Look, I'm really sorry if I am repeating myself too much. I'm not getting any younger and I just need to vent.

But what is the practical meaning of authorizing Congress, not courts, to enforce fundamental rights? Obviously Congress can't enforce anything without courts. All legislatures can do is pass laws with penalties that apply to designated actions, but only courts can charge particular individuals, businesses, corporations, or states with violating those laws; only courts can apply penalties to people. (In fact the Constitution explicitly prohibits Congress from passing judgment on specific individuals or groups. "Bills of Attainder", is what the U.S. Constitution calls such actions.) Of course courts don't physically *enforce* either; courts document violations, which then directs police, marshals, etc. to physically act against crime.

Legal practicality requires both Congress and courts, working together in their respective roles, to enforce the "equal protection of the laws" vision of the 14th Amendment. Courts need to stop usurping both roles.

The areas of dispute between courts and legislatures are

(1) what rights are true protectable rights?

(2) how should rights be balanced when certain rights of some infringe on certain other rights of others? and, to the shame of our nation that this can be in dispute among otherwise civilized people,

(3) who is fully human and thus the recipient of any rights at all?

Courts have no right to enter this dispute. Congress is far better equipped to fine-tune any balancing of competing interests, by its ability to enact many pages of regulations, and to act within a year, and within a week in case of emergency and broad consensus, to address changes in the facts. And to settle a thousand issues a year. That compares with the several years taken by courts to process an issue and the limit of about 80 cases a year for which SCOTUS has the time.

Plus, Congress is bright enough to know babies of people are people, and that matters.

The power to enforce rights subsumes the power to define

the scope of rights. Section 5 gives Congress, alone, that power. Congress is also authorized by the original Constitution to pass laws defining offenses and requiring courts to apply and process them, so actually it is Congress alone which is authorized by the 14th Amendment to rule on whether an unborn baby is a fully human being, whether men have a constitutional right to marry each other, whether boys have a constitutional right to pretend they are girls and compete with girls in athletic events, etc. etc.

Was this a wise solution the Amendment's framers gave us? Has SCOTUS been wiser to disregard it, and have the rest of us been wiser to *let* SCOTUS get away with it? If Congress is given the last word on our rights, will that be less hazardous to human rights than nine unelected judges deciding for us?

Congress is the branch of government most accountable to the people and consisting of a "Multitude of Counsellors" Proverbs 15:22. When fundamental human rights are threatened, the people in danger of losing them should not be denied a voice in their disposition.

Now for some history of *how* and *when* and *how often* SCOTUS usurped Congress' constitution-authorized authority to enforce rights. ***"How SCOTUS morphed the Constitution's end of racial tyranny into its own tool of judicial tyranny in only five years."*** This history largely relies on the dissents and concurrences of Justice Clarence Thomas.

How SCOTUS morphed the Constitution's end of racial tyranny into its own tool of judicial tyranny in only eight years

'Substantive Due Process': how SCOTUS turned the Constitution's Authority to Define Rights, and Congress' 14th Amendment Authority to Enforce Rights, into its own authority to reclassify abominations as 'rights'

The Civil War raged from 1860 to 1865. In 1866 the 13th Amendment was ratified which outlawed slavery except as punishment for a crime. So Southern state legislatures made it a crime to have weapons, and to gather in meetings of more than 4 – if you are Black! So two years later, in 1868, the 14th Amendment was ratified, which authorized Congress to correct deprivation of "equal protection of the laws" to anyone under the "jurisdiction" of the [state] laws.

Justice Thomas explains how quickly the Supreme Court emasculated those protections, and how, in *McDonald v. City of Chicago,* 561 U.S. 742 (2010)

> **Justice Clarence Thomas.** After the war, a series of constitutional amendments were adopted to repair the Nation

from the damage slavery had caused. The provision at issue here, §1 [Section One] of the Fourteenth Amendment, significantly altered our system of government. The first sentence of that section provides that "[a]ll 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." This unambiguously overruled this Court's contrary holding in *Dred Scott v. Sandford,* 19 How. 393 (1857), that the Constitution did not recognize black Americans as *citizens* of the United States or their own State. Id., at 405–406.

The meaning of §1's [section one's] next sentence has divided this Court for many years. That sentence begins with the command that "[n]o State shall make or enforce **any law which shall abridge the privileges or immunities of citizens** of the United States." On its face, this appears to grant the persons just made United States citizens a certain collection of rights—i.e., privileges or immunities—attributable to that status. [An example of a "privilege" would be freedom of religion. An example of an "immunity" would be immunity from "cruel and unusual punishment".]

This Court's precedents accept that point, but define the relevant collection of rights [*so*] narrowly [*as to leave them without effect, violating the obvious principle that*] ...."It cannot be presumed that any clause in the constitution is intended to be without effect." *Marbury v. Madison,* 1 Cranch 137, 174 (1803)

....[*The trashing of the Privileges and Immunities clause began*] in the *Slaughter-House Cases,* 16 Wall. 36 (1873), decided **just five years after the Fourteenth Amendment's adoption,** the Court interpreted this text, now known as the Privileges or Immunities Clause, for the first time. In a closely divided [5-4] decision, the Court drew a sharp distinction between the privileges and immunities of *state citizenship and those of federal citizenship*, ... In other words, *the Court defined the two sets of rights as mutually exclusive.*...and held that the Privileges or Immunities Clause protected only the latter category of rights from state abridgment. Id., at 78. The Court defined that category to include only those rights "which owe their existence to the Federal government, its National character, its Constitution, or its laws." Id., at 79.

(For example, this would exclude protection rights which existed before our national government, such as our God-given "unalienable rights" to "life, liberty, and the pursuit of happiness".)

> This arguably [logically] left open the possibility that certain individual rights enumerated [listed] in the Constitution [especially in its first Eight Amendments] could be considered privileges or immunities of federal citizenship. See ibid. (listing "[t]he right to peaceably assemble" and "the privilege of the writ of habeas corpus" as rights potentially protected by the Privileges or Immunities Clause). But the Court soon rejected that proposition, interpreting the Privileges or Immunities Clause even more narrowly in its later cases.
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> Chief among those cases is ***United States v. Cruikshank,* 92 U. S. 542 (1876). There, the Court held that members of a white militia who had brutally murdered as many as 165 black Louisianians congregating outside a courthouse had not deprived the victims of their privileges as American citizens to peaceably assemble or to keep and bear arms. Ibid.; see L. Keith, *The Colfax Massacre* 109 (2008). According to the Court, the right to peaceably assemble codified in the First Amendment was not a privilege of United States citizenship because "[t]he right . . . existed long before the adoption of the Constitution." 92 U. S., at 551 (emphasis added). Similarly, the Court held that the right to keep and bear arms was not a privilege of United States citizenship because it was not "in any manner dependent upon that instrument for its existence."** Id., at 553.
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> In other words, the reason the Framers codified the right to bear arms in the Second Amendment—its nature as an inalienable right that pre-existed the Constitution's adoption—was the very reason citizens could not enforce it against States through the Fourteenth.
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> That circular reasoning effectively has been the Court's last word on the Privileges or Immunities Clause.

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After reading Thomas' synopsis of Cruikshank, I wanted to read the ruling itself. Had SCOTUS indeed acquired no more regard for
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blacks than they had in its 1857 *Scott v. Sandford* ruling that blacks are "property"? Did SCOTUS actually let off three leaders of a mass-murdering KKK mob? and only 10 years after the Civil War, and 7 years after the 14th Amendment "guaranteed" "equal protection of the laws" for blacks, after certifying all blacks as full citizens with full voting rights?

And more important for today, did SCOTUS' 1876 evasion of the 14th Amendment establish the same evasion that still drags America towards Hell a century and a half later?

My first excerpt from the case is the breathtaking logic described by Thomas as "the right to peaceably assemble codified in the First Amendment was not a privilege of United States citizenship because '[t]he right . . . existed long before the adoption of the Constitution.' " Huh? Can you decipher that? Here is how Cruikshank literally said it:

> **Cruikshank Itself. The right of the people peaceably to assemble for lawful purposes existed long before the adoption of the Constitution of the United States. In fact, it is, and always has been, one of the attributes of citizenship under a free government.** It "derives its source," to use the language of Chief Justice Marshall in *Gibbons v. Ogden,* 9 Wheat. 1, 22 U. S. 211, "from those laws whose authority is acknowledged by civilized man throughout the world." **It is found wherever civilization exists.** It was not, therefore, a right granted to the people by the Constitution.

Let me see if I read that right: *When Congress codifies a law of God, or an "unalienable right", federal courts have no jurisdiction to enforce it because its origin is ancient!* Never mind that the right to peaceably assemble is hardly universal in human governments, but is in fact historically rare!

Do we have the stomach for another excerpt? Here we learn that while everyone who passed the 14th Amendment *thought* it empowered *Congress* to correct trampling of rights in states, no-ho, not so!

> The Government of the United States, when established, found it [the right to assemble, already] in existence, with the obligation on the part *of the States* to afford it protection. As no direct power over it was granted *to Congress,* it remains, according to the ruling in *Gibbons v. Ogden, id.,* 22 U. S. 203, subject to *State*

jurisdiction.

Not till half way through the ruling is the 14th Amendment even mentioned, so at least they had heard of it, but there we learn that "life, liberty, and property" can't be legally taken by a *state*. But if *individuals* take it, *legally, without violating state law*, the 14th Amendment only winks. The Amendment targets only *murders by states,* not by individuals, and if state law *refuses* to criminalize murder of minorities that doesn't count. Here's how Cruikshank said it:

> The **Fourteenth Amendment prohibits a State from depriving any person of life, liberty, or property without due process of law, but this adds nothing to the rights of one citizen as against another.** It simply furnishes an additional guaranty against any encroachment *by the States* upon the fundamental rights which belong to every citizen as a member of society.

Here is another excerpt that reasons as if the 14th Amendment "equal protection of the laws" had never been imposed on states:

> **The first amendment to the Constitution prohibits Congress from abridging "the right of the people to assemble and to petition the government for a redress of grievances." This, like the other amendments proposed and adopted at the same time, was not intended to limit the powers of the State governments *in respect to their own citizens,* but to operate upon the *National* Government *alone*.** *Barron v. The City of Baltimore*, 7 Pet. 250; *Lessee of Livingston v. Moore, id.*, 551; *Fox v. Ohio*, 5 How. 434; *Smith v. Maryland*, 18 *id.* 76; *Withers v. Buckley*, 20 *id.* 90; *Pervear v. The Commonwealth*, 5 Wall. 479; *Twitchell v. The Commonwealth*, 7 *id.* 321; *Edwards v. Elliott*, 21 *id.* 557. It is now too late to question the correctness of this construction. As was said by the late Chief Justice, in *Twitchell v. The Commonwealth*, 7 Wall. 325, "the scope and application of these amendments are no longer subjects of discussion here." They left the authority of the States just where they found it, and added nothing to the already existing powers of the United States.

And again,

> The particular amendment [the 14th] now under consideration assumes the existence of the right of the people to assemble for lawful purposes, and protects it against encroachment *by Congress.* **The right was not created by the amendment; neither was its continuance guaranteed, except as against**

> ***congressional*** **interference. For their protection in its enjoyment, therefore, the people must look to the *States*.** The power for that purpose was originally placed there, and ***it has never been surrendered to the United States.***

Not even by the 14th ? Hmmm. Senator Bingham, "Father of the 14th Amendment" [https://constitutioncenter.org/news-debate/podcasts/john-bingham-father-of-the-14th-amendment], lived until 1900. What did he think of the Cruikshank ruling? My googling didn't turn up an answer. He was the U.S. Ambassador to Japan from May 31, 1873, to July 2, 1885. The Colfax massacre was just before he sailed, Easter Sunday, 1873. Justice Bradley's preliminary ruling was in 1874. Cruikshank was decided in 1876. Was Bingham just too far away for his reaction to matter?

Justice Thomas elsewhere proves that "privileges and immunities" meant, to the Amendment's authors and to the general public who ratified the Amendment, the rights listed in the Constitution – especially in its Bill of Rights, the first 10 Amendments. (The first 8 are rights of individuals.) Those rights are what the 14th is now *supposed* to enforce against states which violate them. The *Cruikshank* majority decision rejects that understanding, saying those rights *still* bind only Congress – not states.

> *Cruikshank*: The right of the people peaceably to assemble for the purpose of petitioning Congress for a redress of grievances, or for any thing else connected with the powers or the duties of the national government, is an attribute of *national* citizenship, and, as such, under the protection of, and guaranteed by, the United States. ...[likewise] "**bearing arms for a lawful purpose"...is not a right granted by the Constitution. Neither is it in any manner dependent upon that instrument for its existence. The second amendment declares that it shall not be infringed, but this, as has been seen, means no more than that it shall not be infringed *by Congress.*** *[States* may infringe it. And *individual citizens* of states may infringe it. And Congress can't do anything about it.]

In other words, SCOTUS refused to accept that its *Dred Scott* precedent of only 19 years before could be overturned by a mere Amendment to the Constitution! Or by a mere Civil War!

Main article: Colfax massacre

On Sunday, April 13, 1873, an armed white conservative militia attacked African-American freedmen, who had gathered at the Grant Parish courthouse in Colfax, Louisiana to protect it from the pending Democratic takeover. Although some of the black people were armed and used their weapons, estimates were that 100–280 were killed, most of them after surrendering, including 50 being held prisoner that night. Three white people were killed, two perhaps by friendly fire. **This was in the tense aftermath of months of uncertainty after the disputed gubernatorial election of November 1872, when two parties declared victory at the state and local levels. The election results were still undetermined at the beginning of spring, and both Republican and Fusionists, who were endorsed by the Democrats, had certified their own candidates for the local offices of sheriff (Christopher Columbus Nash) and justice of the peace in Grant Parish, where Colfax is the parish seat. Federal troops reinforced the election of the Republican governor, William Pitt Kellogg.**

Some members of the white gangs were indicted and charged by the Enforcement Act of 1870. The Act had been designed primarily to allow Federal enforcement and prosecution of actions of the Ku Klux Klan and other secret vigilante groups against blacks, both for violence and murder and for preventing them from voting. Among other provisions, the law made it a felony for two or more people to conspire to deprive anyone of his constitutional rights.[3] The white defendants were charged with sixteen counts, divided into two sets of eight each. Among the charges included violating the freedmen's rights to lawfully assemble, to vote, and to bear arms
https://en.wikipedia.org/wiki/United_States_v._Cruikshank
Cruikshank: **"The Government of the United States, although it is, within the scope of its powers, supreme and beyond the States, can neither grant nor secure to its citizens rights or privileges which are not expressly or by implication placed under its jurisdiction. All that cannot be so granted or secured are left to the exclusive protection of the States."** (Hmmm. But didn't the 14th Amendment

expressly place protection of "privileges" of citizens of all the states under the jurisdiction of Congress?)

The Court found that the First Amendment right to assembly "was not intended to limit the powers of the State governments in respect to their own citizens, but to operate upon the National Government alone," thus **"for their protection in its enjoyment ... the people must look to the States. The power for that purpose was originally placed there, and it has never been surrendered to the United States."** (Hmmm. Surrendered. Not even by the 14th Amendment, one of the unofficial terms of surrender from losing the war?)

The right there specified is that of "bearing arms for a lawful purpose." This is not a right granted by the Constitution. Neither is it in any manner dependent upon that instrument for its existence. The second amendment declares that it shall not be infringed, but this, as has been seen, means no more than that it shall not be infringed by Congress. This is one of the amendments that has no other effect than to restrict the powers of the *national* government, leaving the people to look for their protection against any violation by their fellow citizens of the rights it recognizes, to what is called, in The City of New York v. Miln, 11 Pet. 139, the "powers which relate to merely municipal legislation, or what was, perhaps, more properly called internal police," "not surrendered or restrained" by the Constitution of the United States. [7]

The Court also ruled that the Due Process and Equal Protection Clauses applied only to state action, and not to actions of individuals: "The fourteenth amendment prohibits a State from depriving any person of life, liberty, or property, without due process of law; but this adds nothing to the rights of one citizen as against another."
Concurrence by Justice Clifford.

Cruikshank has been cited for more than a century by supporters of restrictive state and local gun control laws such as the Sullivan Act. ... Cruikshank and Presser v. Illinois, which reaffirmed it in 1886, are the only significant Supreme Court interpretations of the Second Amendment until the ambiguous United States v. Miller in 1939. Both preceded the court's general acceptance of the incorporation doctrine

and have been questioned for that reason

he majority opinion of the Supreme Court in District of Columbia v. Heller suggested that Cruikshank and the cases flowing from it would no longer be considered good law as a result of the radically changed opinion of the Fourteenth Amendment when that issue eventually comes before the courts:

With respect to Cruikshank's continuing validity on incorporation, a question not presented by this case, we note that Cruikshank also said that the First Amendment did not apply against the States and did not engage in the sort of Fourteenth Amendment inquiry required by our later cases. Our later decisions in Presser v. Illinois, 116 U. S. 252, 265 (1886) and Miller v. Texas, 153 U. S. 535, 538 (1894), reaffirmed that the Second Amendment applies only to the Federal Government.

This issue did come before the Supreme Court in McDonald v. Chicago (2010), in which the Supreme Court "reversed the Seventh Circuit, holding that the Fourteenth Amendment makes the Second Amendment right to keep and bear arms for the purpose of self-defense applicable to the states."

Regarding this assertion in Heller that Cruikshank said the first amendment did not apply against the states, Professor David Rabban wrote Cruikshank "never specified whether the First Amendment contains 'fundamental rights' protected by the Fourteenth Amendment against state action"[13]

The Civil Rights Cases (1883) and Justice Rehnquist's opinion for the majority in United States v. Morrison (2000) referred to the Cruikshank state action doctrine.

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Justice Clarence Thomas: Detailed Proof that the turning the “Due Process” clause into a magic wand for SCOTUS to reclassify abominations as “rights” has been a disaster
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from the beginning, and Proof that sticking to the "Privileges and Immunities Clause" would be simpler, more predictable, and more just.

The following section is solid Thomas excerpts from a couple of cases. I'm telling you that instead of indenting and using quotes. The only rare times I comment, I put my comments [in brackets].

For example, Thomas' concurrence begins, "I join the opinion of the Court because it correctly holds that there is no constitutional right to abortion. Respondents [abortionists] invoke one source for that right [to murder babies]: the Fourteenth Amendment's guarantee that no State shall "deprive any *person of life, liberty [?to murder babies??], or property without due process of law."*

It is surreal that an abortionist could base his "liberty" to murder babies on the same sentence that guarantees those same babies a right to "Life"! A novel about it will have Satan quoting the phrase to demand "liberty" for murderers, and laughing as the befuddled public hesitates to observe that "Life" is listed first.

It is also surreal, that Thomas does not mention this irony, nor mention at all the right to life for babies which abortion can't be allowed to snuff out!

His focus in his *Dobbs* Concurrence is to show that the "Due Process" clause of the Amendment, upon which *Roe* based its imaginary "fundamental right to abortion", is no basis for identifying any rights at all; it is the previous clause with the words "privileges and immunities" which legitimately authorize court protection. But Thomas notes no right of babies to live in that clause either.

Most surreal of all: even after quoting the text of the 14th Amendment that lists "Life" as the focus of its protection, it seems not to occur to him, at any point in his concurrence, that the lives of babies belong in the discussion. He never addresses it, focusing only on the *lack* of right to aborticide. And not because aborticide is murder, but because the "right" is not "enumerated". (Specifically listed in the Constitution.)

He does conclude that "there is no abortion guarantee lurking in the Due Process Clause." But is it "lurking" in the "privileges and immunites clause" which he says is the only legitimate authority for courts to define and protect rights? He answers, "...even if the Clause

does protect unenumerated rights, the Court conclusively demonstrates that abortion is not one of them under any plausible interpretive approach."

Yet he only finds zero support for a right to aborticide; neither does he mention any right of babies to live.

Justice Clarence Thomas spreads his grasp of the 14th Amendment through several precedents, yet not even in *Dobbs v. Jackson,* the June 2022 precedent that knocked down *Roe v. Wade* and *Planned Parenthood v. Casey,* does Thomas observe that since the rights SCOTUS is authorized to protect are those listed in the Constitution, and the Right to Life is listed in the Constitution, therefore no state can violate that Right to Life by legalizing the murder of babies.

So I will make that point.

Isn't "life" enumerated by the 5th Amendment requirement of due process and jury trials before taking life, combined with the fact that the Preamble to the Constitution applies its protections not only to citizens but to posterity?

Preamble: We the people of the United states of America, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves **and our posterity,** do ordain and establish this Constitution for the United States of America.

Amendment 5: **No person shall...deprived of life...without due process of law;..**.

Can "due process of law" mean anything less than all the legal rights listed in the 5th and 6th Amendments, right to trial, to face accusers, etc? Can an objection be that babies are not accused of crimes so we can kill them without giving them a chance? Can the innocent have fewer rights than the guilty? How can any "process of law", which means equal in its operation upon all, protect so many expensive rights to the most obviously criminal, but deny any protection at all (from criminals) to the most obviously innocent?

Now here are several pages of Thomas quotes from two cases he cites in Dobbs:

"Fundamental rights" are undefined, confusing,

inconsistent, an oxymoron, and unconstitutional

United States v. Carlton, 512 U.S. 26 (1994)
JUSTICE SCALIA, with whom JUSTICE THOMAS joins, concurring in the judgment.

" 'substantive due process' " is not "a constitutional right" but "rather...an oxymoron".

.... "I believe that the Due Process Clause guarantees no substantive rights, but only (as it says) process"...

In "the due process reasoning the Court applies to its identification of new so-called fundamental rights, such as the right to structure family living arrangements, see Moore v. East Cleveland, 431 U. S. 494 (1977) (plurality opinion), [which strikes down a city zoning ordinance that keeps a grandmother from living with her grandchild] and the right to an abortion, .., the Court strikes down laws that concededly [admittedly] promote legitimate interests, ...[yet] ...the Court *upholds* [some other law] because it rationally furthers a legitimate interest...

The picking and choosing among various rights to be accorded "substantive due process" protection is alone enough to arouse suspicion; but the categorical and inexplicable exclusion of so-called "economic rights" (even though the Due Process Clause explicitly applies to "property") unquestionably involves policymaking rather than neutral legal analysis.

I would follow the text of the Constitution, which sets forth certain substantive [substantial, not imaginary, not subordinate] rights [in the "privileges and immunites" clause] that cannot be taken away, and adds, beyond that, [in the following "due process" clause] a right to due process when life, liberty, or property is to be taken away.

SCOTUS STILL refuses to protect all constitutional rights, STILL usurping the power to decide for itself which rights it likes

McDonald v. City of Chicago, 561 U.S. 742 (2010)

Issue: Whether the Privileges or Immunities Clause of the Fourteenth Amendment requires the application of the Bill of Rights in its entirety to state and local governments.
Holding: No. The holding in the Slaughter-House Case remains in effect, and incorporation is the appropriate way to selectively apply provisions in the Bill of Rights beyond the federal government.

Concurrence
Clarence Thomas (Author)

Summary: Thomas would have accepted McDonald's bolder argument and overruled the Slaughter-House Case, finding that the Privileges or Immunities Clause of the Fourteenth Amendment automatically applied all of the protections in the Bill of Rights to states and cities.

In Thomas' words: I agree with the Court that the Fourteenth Amendment makes the right to keep and bear arms set forth in the Second Amendment "fully applicable to the States." Ante, at 1. I write separately because I believe there is a more straightforward path to this conclusion, one that is more faithful to the Fourteenth Amendment's text and history. [Which is important because today's ruling reached the right position on the Right to Bear Arms as if by accident; following the Constitution better would have spared us holding the wrong position for the past century, and would correct other horrendous precedents.]

Applying what is now a well-settled test, the [stupid] plurality opinion concludes that the right to keep and bear arms applies to the States through the Fourteenth Amendment's Due Process Clause because it is "fundamental" to the American "scheme of ordered liberty," ante, at 19 (citing Duncan v. Louisiana, 391 U. S. 145, 149 (1968)), and " 'deeply rooted in this Nation's history and tradition,' " ante, at 19 (quoting Washington v. Glucksberg, 521 U. S. 702, 721 (1997)).

I agree with that description of the right. But I cannot agree that it is enforceable against the States through a clause that speaks only to "process." Instead, the right to keep and bear arms is a privilege of American citizenship that applies to the States through the Fourteenth Amendment's Privileges or Immunities Clause....

SCOTUS can't decide which rights are "fundamental"

....the Court has held that the Clause prevents state abridgment of only a handful of rights,

Where, oh where does the 14th protect rights?....As a consequence of this Court's marginalization of the Clause, litigants seeking federal protection of fundamental rights turned to the remainder of §1 in search of an alternative fount of such rights. They found one in a most curious place—that section's command that every State guarantee "due process" to any person before depriving him of "life, liberty, or property."

The invention of "Incorporated" rights. At first, litigants argued that this Due Process Clause "incorporated" certain procedural rights codified in the Bill of Rights against the States.

Not "fundamental" enough. The Court generally rejected those claims, however, on the theory that the rights in question were not sufficiently "fundamental" to warrant such treatment. See, e.g., Hurtado v. California, 110 U. S. 516 (1884) (grand jury indictment requirement); Maxwell v. Dow, 176 U. S. 581 (1900) (12-person jury requirement); Twining v. New Jersey, 211 U. S. 78 (1908) (privilege against self-incrimination).

Fundamental enough, after all. That changed with time. The Court came to conclude that certain Bill of Rights guarantees were sufficiently fundamental to fall within §1's [section one's] guarantee of "due process." These included not only procedural protections listed in the first eight Amendments, see, e.g., Benton v. Maryland, 395 U. S. 784 (1969) (protection against double jeopardy), but substantive rights as well, see, e.g., Gitlow v. New York, 268 U. S. 652, 666 (1925) (right to free speech); Near v. Minnesota ex rel. Olson, 283 U. S. 697, 707 (1931) (same).

Treating State & Federal Violations Differently. In the process of incorporating these rights against the States, the Court often applied them differently against the States than against the Federal Government on the theory that only those "fundamental" aspects of the right required Due Process Clause protection. See, e.g., Betts v. Brady, 316 U. S. 455, 473 (1942) (holding that the Sixth Amendment required the appointment of counsel in all federal criminal cases in which the defendant was unable to retain an attorney, but that the Due Process Clause required appointment of counsel in state criminal cases only where "want of counsel . . . result[ed] in a conviction lacking in . . .

fundamental fairness").

Wait - **Treating State & Federal Violations the Same.** In more recent years, this Court has "abandoned the notion" that the guarantees in the Bill of Rights apply differently when incorporated against the States than they do when applied to the Federal Government. Ante, at 17–18 (opinion of the Court) (internal quotation marks omitted). But our cases continue to adhere to the view that a right is incorporated through the Due Process Clause only if it is sufficiently "fundamental," ante, at 37, 42–44 (plurality opinion) **—a term the Court has long struggled to define.**

Rights have to be "deeply rooted in history." Or maybe not. While this Court has at times concluded that a right gains "fundamental" status only if it is essential to the American "scheme of ordered liberty" or " 'deeply rooted in this Nation's history and tradition,' " ante, at 19 (plurality opinion) (quoting Glucksberg, 521 U. S., at 721), the Court has just as often held that a right warrants Due Process Clause protection if it satisfies a far less measurable range of criteria, see Lawrence v. Texas, 539 U. S. 558, 562 (2003) (concluding that the Due Process Clause protects "liberty of the person both in its spatial and in its more transcendent dimensions"). [overturning sodomy laws?] Using the latter approach, the Court has determined that the Due Process Clause applies rights against the States that are not mentioned in the Constitution at all, even without seriously arguing that the Clause was originally understood to protect such rights. See, e.g., Lochner v. New York, 198 U. S. 45 (1905); Roe v. Wade, 410 U. S. 113 (1973); Lawrence, supra.

All of this is a legal fiction. The notion that a constitutional provision that guarantees only "process" before a person is deprived of life, liberty, or property could define the substance of those rights strains credulity for even the most casual user of words. Moreover, this fiction is a particularly dangerous one. **The one theme that links the Court's substantive due process precedents together is their lack of a guiding principle to distinguish "fundamental" rights that warrant protection from nonfundamental rights that do not.**

Today's decision illustrates the point. Replaying a debate that has endured from the inception of the Court's substantive due process jurisprudence, the dissents laud the "flexibility" in this Court's substantive due process doctrine, post, at 14 (Stevens, J., dissenting); see post, at

6–8 (Breyer, J., dissenting), while the plurality [majority] makes yet another effort to impose principled restraints on its exercise, see ante, at 33–41. But **neither side argues that the meaning they attribute to the Due Process Clause was consistent with public understanding at the time of its ratification.**

To be sure, the plurality's effort to cabin [bridle] the exercise of judicial discretion under the Due Process Clause by focusing its inquiry on those rights *deeply rooted in American history and tradition* invites less opportunity for abuse than the alternatives. See post, at 7 (Breyer, J., dissenting) (arguing that rights should be incorporated against the States through the Due Process Clause if they are "well-suited to the carrying out of . . . constitutional promises"); post, at 22 (Stevens, J., dissenting) (warning that there is no "all-purpose, top-down, totalizing theory of 'liberty' " protected by the Due Process Clause). But **any serious argument over the scope of the Due Process Clause must acknowledge that neither its text nor its history suggests that it protects the many substantive rights this Court's cases now claim it does.**

I cannot accept a theory of constitutional interpretation that rests on such tenuous footing. **This Court's substantive due process framework fails to account for both the text of the Fourteenth Amendment and the history that led to its adoption, filling that gap with a jurisprudence devoid of a guiding principle.** I believe **the original meaning of the Fourteenth Amendment offers a superior alternative, and that a return to that meaning would allow this Court to enforce the rights the Fourteenth Amendment is designed to protect with greater clarity and predictability** than the substantive due process framework has so far managed....

The Original Meaning of the 14th

II

"It cannot be presumed that any clause in the constitution is intended to be without effect." Marbury v. Madison, 1 Cranch 137, 174 (1803) (Marshall, C. J.). Because the Court's Privileges or Immunities Clause precedents have presumed just that, I set them aside for the moment and begin with the text.

The Privileges or Immunities Clause of the Fourteenth Amendment declares that "[n]o State . . . shall abridge the privileges or immunities of citizens of the United States." In interpreting this language, it is important to recall that constitutional provisions are " 'written to be understood by the voters.' " Heller, 554 U. S., at ___ (slip op., at 3) (quoting United States v. Sprague, 282 U. S. 716, 731 (1931)). Thus, the objective of this inquiry is to discern what "ordinary citizens" at the time of ratification would have understood the Privileges or Immunities Clause to mean. 554 U. S., at ___ (slip op., at 3).

"Privileges and Immunites" - a Common Phrase. A 1 At the time of Reconstruction, the terms "privileges" and "immunities" had an established meaning as synonyms for "rights." The two words, standing alone or paired together, were used interchangeably with the words "rights," "liberties," and "freedoms," and had been since the time of Blackstone. See 1 W. Blackstone, Commentaries *129 (describing the "rights and liberties" of Englishmen as "private immunities" and "civil privileges"). A number of antebellum [pre-Civil War] judicial decisions used the terms in this manner. See, e.g., Magill v. Brown, 16 F. Cas. 408, 428 (No. 8,952) (CC ED Pa. 1833) (Baldwin, J.) ("The words 'privileges and immunities' relate to the rights of persons, place or property; a privilege is a peculiar right, a private law, conceded to particular persons or places"). In addition, dictionary definitions confirm that the public shared this understanding. See, e.g., N. Webster, An American Dictionary of the English Language 1039 (C. Goodrich & N. Porter rev. 1865) (defining "privilege" as "a right or immunity not enjoyed by others or by all" and listing among its synonyms the words "immunity," "franchise," "right," and "liberty"); id., at 661 (defining "immunity" as "[f]reedom from an obligation" or "particular privilege"); id., at 1140 (defining "right" as "[p]rivilege or immunity granted by authority").[Footnote 2]

The fact that a particular interest was designated as a "privilege" or "immunity," rather than a "right," "liberty," or "freedom," revealed little about its substance. Blackstone, for example, used the terms "privileges" and "immunities" to describe both the inalienable rights of individuals and the positive-law rights of

corporations. ...

The nature of a privilege or immunity thus varied depending on the person, group, or entity to whom those rights were assigned. See Lash, The Origins of the Privileges or Immunities Clause, Part I: "Privileges and Immunities" as an Antebellum Term of Art, 98 Geo. L. J. 1241, 1256–1257 (2010) (surveying antebellum usages of these terms).

...For example, a Maryland law provided that

"[A]ll the Inhabitants of this Province being Christians (Slaves excepted) Shall have and enjoy all such **rights liberties immunities priviledges and free customs** within this Province as any naturall born subject of England hath or ought to have or enjoy in the Realm of England . . . ." Md. Act for the Liberties of the People (1639), in id., at 68 (emphasis added).[Footnote 3]

As tensions between England and the Colonies increased, the colonists adopted protest resolutions reasserting their claim to the inalienable rights of Englishmen. Again, they used the terms "privileges" and "immunities" to describe these rights....

the First Continental Congress declared in 1774 that the King had wrongfully denied the colonists **"the rights, liberties, and immunities** of free and natural-born subjects … within the realm of England." 1 Journals of the Continental Congress 1774–1789, p. 68 (1904)....

3

Even though the Bill of Rights did not apply to the States, other provisions of the Constitution did limit state interference with individual rights. Article IV, §2, cl. 1 provides that **"[t]he Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States."** The text of this provision resembles the Privileges or Immunities Clause, and it can be assumed that the public's understanding of the latter was informed by its understanding of the former.

Article IV, §2 was derived from a similar clause in the Articles of Confederation, and reflects the dual citizenship the Constitution provided to all Americans after replacing that "league" of separate sovereign States. Gibbons v. Ogden, 9 Wheat. 1, 187 (1824); see 3 J. Story, Commentaries on the Constitution of the United States §1800, p. 675 (1833). By virtue of a person's citizenship in a particular State, he was guaranteed whatever rights and liberties that State's constitution and laws made available. **Article IV, §2 vested citizens of each State with an additional right: the assurance that they would be afforded**

the "privileges and immunities" of citizenship in any of the several States in the Union to which they might travel.

What were the "Privileges and Immunities of Citizens in the several States"? ...

[According to an early precedent] Article IV, §2 did not guarantee equal access to all public benefits a State might choose to make available to its citizens. See id., at 552. Instead, it applied only to those rights "which are, in their nature, fundamental; which belong, of right, to the citizens of all free governments." Id., at 551 (emphasis added). Other courts generally agreed with this principle. See, e.g., Abbott v. Bayley, 23 Mass. 89, 92–93 (1827) (noting that the "privileges and immunities" of citizens in the several States protected by Article IV, §2 are "qualified and not absolute" because they do not grant a traveling citizen the right of "suffrage or of eligibility to office" in the State to which he travels)....

When describing those "fundamental" rights, Justice Washington thought it "would perhaps be more tedious than difficult to enumerate" them all, but suggested that they could "be all comprehended under" a broad list of "general heads," such as "[p]rotection by the government," "the enjoyment of life and liberty, with the right to acquire and possess property of every kind," "the benefit of the writ of habeas corpus," and the right of access to "the courts of the state," among others....

...the weight of legal authorities at the time of Reconstruction indicated that Article IV, §2 prohibited States from discriminating against sojourning citizens when recognizing fundamental rights, but did not require States to recognize those rights and did not prescribe their content. The highest courts of several States adopted this view, ...

(describing Article IV, §2 as designed "to prevent discrimination by the several States against the citizens and public proceedings of other States"); 2 J. Kent, Commentaries on American Law 35 (11th ed. 1867) (stating that Article IV, §2 entitles sojourning citizens "to the privileges that persons of the same description are entitled to in the state to which the removal is made, and to none other"). This Court adopted the same conclusion in a unanimous opinion just one year after the Fourteenth Amendment was ratified. ...

Article IV, §2 of the Constitution protected traveling citizens against state discrimination with respect to the fundamental rights of state citizenship....

B

I start with the nature of the rights that §1's Privileges or Immunities Clause protects. Section 1 [of the 14th Amendment] overruled Dred Scott's holding that blacks were not citizens of either the United States or their own State and, thus, did not enjoy "the privileges and immunities of citizens" embodied in the Constitution. 19 How., at 417. T...

1

Nineteenth-century treaties through which the United States acquired territory from other sovereigns routinely promised inhabitants of the newly acquired territories that they would enjoy all of the "rights," "privileges," and "immunities" of United States citizens. ...

It is therefore altogether unsurprising that several of these treaties identify liberties enumerated in the Constitution as privileges and immunities common to all United States citizens....

For example, the Louisiana Cession Act of 1803, which codified a treaty between the United States and France culminating in the Louisiana Purchase, provided that

"The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal constitution, to the enjoyments of all the rights, advantages and immunities of citizens of the United States; and in the mean time they shall be maintained and protected in the **free enjoyment of their liberty, property and the religion which they profess."** Treaty Between the United States of America and the French Republic, Art. III, Apr. 30, 1803, 8 Stat. 202, T. S. No. 86 (emphasis added).[Footnote 8]

The Louisiana Cession Act reveals even more about the privileges and immunities of United States citizenship because it provoked **an extensive public debate on the meaning of that term.** In 1820, when the Missouri Territory (which the United States acquired through the Cession Act) sought to enter the Union as a new State, a debate ensued over whether to prohibit slavery within Missouri as a condition of its admission. Some congressmen argued that **prohibiting slavery in Missouri would deprive its inhabitants of the "privileges and immunities" they had been promised** by the Cession Act. See, e.g., 35 Annals of Cong. 1083 (1855) (remarks of Kentucky Rep. Hardin). But those who opposed slavery in Missouri argued that the right to hold slaves was merely **a matter of state property law, not one of the privileges and immunities of United States citizenship** guaranteed by the Act.[Footnote 9]

Daniel Webster was among the leading proponents of the

antislavery position. In his "Memorial to Congress," Webster argued that "[t]he **rights, advantages and immunities** here spoken of [in the Cession Act] must . . . be such as are recognized or communicated by the Constitution of the United States," not the **"rights, advantages and immunities, derived exclusively from the State governments** . . . ." D. Webster, A Memorial to the Congress of the United States on the Subject of Restraining the Increase of Slavery in New States to be Admitted into the Union 15 (Dec. 15, 1819) (emphasis added). "The obvious meaning" of the Act, in Webster's view, was that "the rights derived under the federal Constitution shall be enjoyed by the inhabitants of [the territory]." Id., at 15–16 (emphasis added). In other words, Webster articulated **a distinction between the rights of United States citizenship and the rights of state citizenship, and argued that the former included those rights "recognized or communicated by the Constitution." Since the right to hold slaves was not mentioned in the Constitution, it was not a right of federal citizenship.**

Webster and his allies ultimately lost the debate over slavery in Missouri and the territory was admitted as a slave State as part of the now-famous Missouri Compromise....Missouri Enabling Act of March 6, 1820, ch. 22, §8, 3 Stat. 548. But their arguments continued to inform **public understanding of the privileges and immunities of United States citizenship.** In **1854, Webster's Memorial was republished** in a pamphlet discussing the Nation's next major debate on slavery—the proposed repeal of the Missouri Compromise through the Kansas-Nebraska Act, see The Nebraska Question: Comprising Speeches in the United States Senate: Together with the History of the Missouri Compromise 9–12 (1854). It was published again in 1857 in a collection of famous American speeches. See The Political Text-Book, or Encyclopedia: Containing Everything Necessary for the Reference of the Politicians and Statesmen of the United States 601–604 (M. Cluskey ed. 1857); see also Lash, 98 Geo. L. J., at 1294–1296 (describing Webster's arguments and their influence)....

2 Establishing that Thomas' interpretation was not just the opinion of a few legal scholars but of the whole nation.

Evidence from the political branches in the years leading to the Fourteenth Amendment's adoption demonstrates broad public understanding that the privileges and immunities of United States citizenship included rights set forth in the Constitution, just as Webster and his allies had argued. In 1868, President Andrew Johnson issued a

proclamation granting amnesty to former Confederates, guaranteeing "to all and to every person who directly or indirectly participated in the late insurrection or rebellion, a full pardon and amnesty for the offence of treason . . . with restoration of all rights, privileges, and immunities under the Constitution and the laws which have been made in pursuance thereof." 15 Stat. 712.

Records from the 39th Congress further support this understanding.

a

After the Civil War, Congress established the Joint Committee on Reconstruction to investigate circumstances in the Southern States and to determine whether, and on what conditions, those States should be readmitted to the Union. See Cong. Globe, 39th Cong., 1st Sess., 6, 30 (1865) (hereinafter 39th Cong. Globe); M. Curtis, No State Shall Abridge: The Fourteenth Amendment and the Bill of Rights 57 (1986) (hereinafter Curtis). That Committee would ultimately recommend the adoption of the Fourteenth Amendment, justifying its recommendation by submitting a report to Congress that extensively catalogued the abuses of civil rights in the former slave States and argued that "adequate security for future peace and safety . . . can only be found in such changes of the organic law as shall determine the civil rights and privileges of all citizens in all parts of the republic." See Report of the Joint Committee on Reconstruction, S. Rep. No. 112, 39th Cong., 1st Sess., p. 15 (1866); H. R. Rep. No. 30, 39th Cong., 1st Sess., p. XXI (1866).

As the Court notes, the Committee's Report "was widely reprinted in the press and distributed by members of the 39th Congress to their constituents." Ante, at 24; B. Kendrick, Journal of the Joint Committee of Fifteen on Reconstruction 264–265 (1914) (noting that **150,000 copies of the Report were printed and that it was widely distributed as a campaign document in the election of 1866**). In addition, newspaper coverage suggests that the wider public was aware of the Committee's work even before the Report was issued. For example, the Fort Wayne Daily **Democrat** (which appears to have been unsupportive of the Committee's work) paraphrased a motion instructing the Committee to "enquire into [the] expediency of amending the Constitution of the United States so as to declare with greater certainty the power of Congress to enforce and determine by appropriate legislation all the guarantees contained in that instrument." **The Nigger Congress!**, Fort Wayne Daily Democrat, Feb. 1, 1866, p. 4 (emphasis added).

...b

Statements made by Members of Congress leading up to, and

during, the debates on the Fourteenth Amendment point in the same direction. The record of these debates has been combed before. See Adamson v. California, 332 U. S. 46, 92–110 (1947) (Appendix to dissenting opinion of Black, J.) (concluding that **the debates support the conclusion that §1 was understood to incorporate the Bill of Rights against the States); ...**

In other words, this evidence is useful not because it demonstrates what the draftsmen of the text may have been thinking, but only insofar as it illuminates what the public understood the words chosen by the draftsmen to mean....

(1)

Three speeches stand out as particularly significant. Representative John Bingham, the principal draftsman of §1, [section one] delivered a speech on the floor of the House in February 1866 introducing his first draft of the provision. Bingham began by discussing Barron [an earlier precedent] and its holding that the Bill of Rights did not apply to the States. He then argued that a constitutional amendment was necessary to provide "an express grant of power in Congress to enforce by penal enactment these great canons of the supreme law, **securing to all the citizens in every State all the privileges and immunities of citizens, and to all the people all the sacred rights of person."** 39th Cong. Globe 1089–1090 (1866). Bingham emphasized that **§1 was designed "to arm the Congress of the United States, by the consent of the people of the United States, with the power to enforce the bill of rights as it stands in the Constitution today. It 'hath that extent—no more.'** " Id., at 1088.

Bingham's speech was printed in pamphlet form and broadly distributed in 1866 under the title, "One Country, One Constitution, and One People," and the subtitle, "In Support of the Proposed Amendment to Enforce the Bill of Rights."[Footnote 10] Newspapers also reported his proposal, with the New York Times providing particularly extensive coverage, including a full reproduction of Bingham's first draft of §1 and his remarks that a constitutional amendment to "enforc[e]" the "immortal bill of rights" was "absolutely essential to American nationality." N. Y. Times, Feb. 27, 1866, p. 8.

Bingham's first draft of §1 was different from the version ultimately adopted. Of particular importance, the first draft granted Congress the "power to make all laws … necessary and proper to secure" the "citizens of each State all privileges and immunities of citizens in the several States," rather than restricting state power to "abridge" the privileges or immunities of citizens of the United States.

[Footnote 11] 39th Cong. Globe 1088. *[In other words, the enacted 14th is reactive, not proactive. It waits for states to abridge rights before Congress reacts.]*

... the Times' coverage of this debate over §1's meaning suggests public awareness of its main contours—i.e., that §1 would, at a minimum, enforce constitutionally enumerated rights of United States citizens against the States.

... By the time the debates on the Fourteenth Amendment resumed, Bingham had amended his draft of §1 to include the text of the Privileges or Immunities Clause that was ultimately adopted. Senator Jacob Howard introduced the new draft on the floor of the Senate in the third speech relevant here. Howard explained that the Constitution recognized "a mass of privileges, immunities, and rights, **some of them secured by the second section of the fourth article of the Constitution, . . . some by the first eight amendments of the Constitution,"** and that "there is no power given in the Constitution to enforce and to carry out any of these guarantees" against the States. 39th Cong. Globe 2765. Howard then stated that **"the great object" of §1 was to "restrain the power of the States and compel them at all times to respect these great fundamental guarantees." ...**

In describing these rights, Howard explained that they included "the privileges and immunities spoken of" in Article IV, §2. Id., at 2765. Although he did not catalogue the precise "nature" or "extent" of those rights, he thought "Corfield v. Coryell" provided a useful description. Howard then submitted that

> "[t]o these privileges and immunities, whatever they may be— . . . should be added the personal rights guarantied and secured by the first eight amendments of the Constitution; such as the freedom of speech and of the press; the right of the people peaceably to assemble and petition the Government for a redress of grievances, [and] . . . the right to keep and to bear arms." Ibid. (emphasis added).

[Thomas selectively lists "the right to bear arms" in this case because this 2010 precedent is where SCOTUS *finally* jettisons *Cruikshank's* holding that the Amendment does *not* require states to honor their citizens' right to carry guns. Thomas still objects because this precedent still doesn't jettison the notion that SCOTUS gets to decide *which* of the Constitution's listed rights it will protect.]

News of Howard's speech was carried in major newspapers

across the country, including the New York Herald, see N. Y. Herald, May 24, 1866, p. 1, which was the best-selling paper in the Nation at that time,... N. Y. Times, May 24, 1866, p. 1. The following day's Times editorialized on Howard's speech, predicting that **"[t]o this, the first section of the amendment, the Union party throughout the country will yield a ready acquiescence, and the South could offer no justifiable resistance,"** suggesting that Bingham's narrower second draft had not been met with the same objections that Hale had raised against the first. N. Y. Times, May 25, 1866, p. 4.

As a whole, these well-circulated speeches indicate that §1 was understood to enforce constitutionally declared rights against the States, and **they provide no suggestion that any language in the section other than the Privileges or Immunities Clause would accomplish that task....**

Both proponents and opponents of this Act [Civil Rights Act of 1866] described it as providing the "privileges" of citizenship to freedmen, and defined those privileges to include constitutional rights, such as the right to keep and bear arms. See 39th Cong. Globe 474 (remarks of Sen. Trumbull) (stating that the "the late slaveholding States" had enacted laws "depriving persons of African descent of privileges which are essential to freemen," including "prohibit[ing] any negro or mulatto from having fire-arms" and stating that "[t]he purpose of the bill under consideration is to destroy all these discriminations"); id., at 1266–1267 (remarks of Rep. Raymond) (opposing the Act, but recognizing that to "[m]ake a colored man a citizen of the United States" would guarantee to him, inter alia, "a defined status . . . a right to defend himself and his wife and children; a right to bear arms")....

Even opponents of Fourteenth Amendment enforcement legislation acknowledged that the Privileges or Immunities Clause protected constitutionally enumerated individual rights....

Legislation passed in furtherance of the Fourteenth Amendment demonstrates even more clearly this understanding. For example, Congress enacted the **Civil Rights Act of 1871**, 17 Stat. 13, which was titled in pertinent part "An Act to enforce the Provisions of the Fourteenth Amendment to the Constitution of the United States," and which is codified in the still-existing 42 U. S. C. §1983. That statute prohibits state officials from depriving citizens of "any rights, privileges, or immunities secured by the Constitution." Rev. Stat. 1979, 42 U. S. C. §1983 (emphasis added). Although the Judiciary ignored this provision for decades after its enactment, this Court has come to

interpret the statute, unremarkably in light of its text, as protecting constitutionally enumerated rights. Monroe v. Pape, 365 U. S. 167, 171 (1961)....

A Federal Court of Appeals decision written by a future Justice of this Court adopted the same understanding of the Privileges or Immunities Clause. See, e.g., United States v. Hall, 26 F. Cas. 79, 82 (No. 15,282) (CC SD Ala. 1871) (Woods, J.) ("We think, therefore, that the . . . rights enumerated in the first eight articles of amendment to the constitution of the United States, are the privileges and immunities of citizens of the United States").

In addition, two of the era's major constitutional treatises reflected the understanding that **§1 would protect constitutionally enumerated rights** from state abridgment. [Footnote 14] A third such treatise **unambiguously indicates that the Privileges or Immunities Clause accomplished this task.** G. Paschal, The Constitution of the United States 290 (1868) (explaining that the rights listed in §1 had "already been guarantied" by Article IV and the Bill of Rights, but that "[t]he new feature declared" by §1 was that these rights, "which had been construed to apply only to the national government, are thus imposed upon the States").

Another example of public understanding comes from United States Attorney Daniel Corbin's statement in an 1871 Ku Klux Klan prosecution. Corbin cited Barron and declared:

"[T]he fourteenth amendment changes all that theory, and lays the same restriction upon the States that before lay upon the Congress of the United States—that, as Congress heretofore could not interfere with the right of the citizen to keep and bear arms, now, after the adoption of the fourteenth amendment, the State cannot interfere with the right of the citizen to keep and bear arms. The right to keep and bear arms is included in the fourteenth amendment, under 'privileges and immunities.' " Proceedings in the Ku Klux Trials at Columbia, S. C., in the United States Circuit Court, November Term, 1871, p. 147 (1872).

This evidence plainly shows that the ratifying public understood the Privileges or Immunities Clause to protect constitutionally enumerated rights, including the right to keep and bear arms.

C The Privileges or Immunities Clause opens with the command that "No State shall" abridge the privileges or immunities of citizens of the United States. Amdt. 14, §1 (emphasis added). The very same phrase opens Article I, §10 of the Constitution, which prohibits the States from "pass[ing] any Bill of Attainder" or "ex post facto Law," among other things. Article I, §10 is one of the few constitutional provisions [before the 14th Amendment] that limits state authority.

....Thus, the fact that the Privileges or Immunities Clause uses the command "[n]o State shall"—which Article IV, §2 does not—strongly suggests that the former imposes a greater restriction on state power than the latter.

This interpretation is strengthened when one considers that the Privileges or Immunities Clause uses the verb "abridge," rather than "discriminate," to describe the limit it imposes on state authority. [This responds to the argument of the defendant in the case that thought they could ban handgun possession so long as they did not "discriminate" but banned it for everyone equally.]

!!!!!!!!!!!!!!!

...many 19th-century Americans understood the Bill of Rights to declare inalienable rights that pre-existed all government. Thus, even though the Bill of Rights technically applied only to the Federal Government, many believed that it declared rights that no legitimate government could abridge.

The overarching goal of pro-slavery forces was to repress the spread of abolitionist thought and the concomitant risk of a slave rebellion. Indeed, it is difficult to overstate the extent to which fear of a slave uprising gripped slaveholders and dictated the acts of Southern legislatures. Slaves and free blacks represented a substantial percentage of the population and posed a severe threat to Southern order if they were not kept in their place. According to the 1860 Census, slaves represented one quarter or more of the population in 11 of the 15 slave States, nearly half the population in Alabama, Florida, Georgia, and Louisiana, and more than 50% of the population in Mississippi and South Carolina. Statistics of the United States (Including Mortality, Property, &c.,) in 1860, The Eighth Census 336–350 (1866).

...c

After the Civil War, Southern anxiety about an uprising among the newly freed slaves peaked. As Representative Thaddeus Stevens is reported to have said, **"[w]hen it was first proposed to free the slaves, and arm the blacks, did not half the nation tremble? The prim conservatives, the snobs, and the male waiting-maids in Congress, were in hysterics."** K. Stampp, The Era of Reconstruction, 1865–1877, p. 104 (1965) (hereinafter Era of Reconstruction).

As the Court explains, this fear led to "systematic efforts" in the "old Confederacy" to disarm the more than 180,000 freedmen who had served in the Union Army, as well as other free blacks. See ante, at

23. Some States formally prohibited blacks from possessing firearms. Ante, at 23–24 (quoting 1865 Miss. Laws p. 165, §1, reprinted in 1 Fleming 289). **Others enacted legislation prohibiting blacks from carrying firearms without a license, a restriction not imposed on whites.** See, e.g., La. Statute of 1865, reprinted in id., at 280. Additionally, "[t]hroughout the South, **armed parties, often consisting of ex-Confederate soldiers serving in the state militias, forcibly took firearms from newly freed slaves."** Ante, at 24.

The publicly circulated Report of the Joint Committee on Reconstruction extensively detailed these abuses, see ante, at 23–24 .... Section 1 guaranteed the rights of citizenship in the United States and in the several States without regard to race. But it was understood that liberty would be assured little protection if §1 left each State to decide which privileges or immunities of United States citizenship it would protect. As Frederick Douglass explained before §1's adoption, "the Legislatures of the South can take from him the right to keep and bear arms, as they can—they would not allow a negro to walk with a cane where I came from, they would not allow five of them to assemble together." In What New Skin Will the Old Snake Come Forth? An Address Delivered in New York, New York, May 10, 1865, reprinted in 4 The Frederick Douglass Papers 79, 83–84....

This history confirms what the text of the Privileges or Immunities Clause most naturally suggests: Consistent with its command that "[n]o State shall … abridge" the rights of United States citizens, the Clause establishes a minimum baseline of federal rights, and the constitutional right to keep and bear arms plainly was among them.[Footnote 19]

[Surely then, also, was the Right to Live.]

III

Slaughterhouse Cases

My conclusion is contrary to this Court's precedents, which hold that the Second Amendment right to keep and bear arms is not a privilege of United States citizenship. ....

This Court rejected the butchers' claim, holding that their asserted right was not a privilege or immunity of American citizenship, but one governed by the States alone. The Court held that the Privileges or Immunities Clause protected only rights of federal citizenship—those "which owe their existence to the Federal government, its

National character, its Constitution, or its laws," id., at 79—and did not protect any of the rights of state citizenship, id., at 74. **In other words, the Court defined the two sets of rights as mutually exclusive.**

After separating these two sets of rights, the Court defined the rights of state citizenship as "embrac[ing] nearly every civil right for the establishment and protection of which organized government is instituted"—that is, all those rights listed in Corfield. 16 Wall., at 76 (referring to "those rights" that "Judge Washington" described)**. That left very few rights of federal citizenship for the Privileges or Immunities Clause to protect.** The Court suggested a handful of possibilities, such as the **"right of free access to [federal] seaports,"** protection of the Federal Government while traveling "on the high seas," and even two rights listed in the Constitution. Id., at 79 (noting "[t]he right to peaceably assemble" and "the privilege of the writ of habeas corpus");....

https://journals.law.harvard.edu/crcl/wp-content/uploads/sites/80/2011/09/385_Pope.pdf
Snubbed Landmark: Why United States v. Cruikshank (1876) Belongs at the Heart of the American Constitutional Canon
James Gray Pope*

United States v. Cruikshank (1876) is an unacknowledged landmark of American constitutional jurisprudence. *Cruikshank*, not the far more famous Civil Rights Cases, limited the Fourteenth Amendment to protect only against state action; *Cruikshank*, not the notorious *Slaughter-House Cases*, narrowed the *Privileges or Immunities Clause* of the Fourteenth Amendment to exclude rights enumerated in the Bill of Rights; *Cruikshank*, not the canonical *Washington v. Davis*, announced that the Fourteenth Amendment's Equal Protection Clause protected only against provably intentional race discrimination; and Cruikshank, not the *Civil Rights Cases* or *City*

of Boerne v. Flores, first excepted the Fourteenth Amendment from the general principle that Congress enjoys discretion to select the means of implementing its constitutional powers.

Historically, if the argument of this Article holds true, Cruikshank played a crucial role in terminating Reconstruction and launching the one-party, segregationist regime of "Jim Crow" that prevailed in the South until the 1960s. The circuit court opinion of Justice Joseph Bradley unleashed the second and decisive phase of Reconstruction-era terrorism, while the ruling of the full Court ensured its successful culmination in the "redemption" of the black-majority states.

Despite its enormous jurisprudential and historical importance, however, *Cruikshank* has been omitted from the mainstream narrative and pedagogical canon of constitutional law. The results have been obfuscation and distortion.

Unlike the *Civil Rights Cases, Slaughter-House, Davis,* and *City of Boerne* —from which students learn the principles actually announced in *Cruikshank* —*Cruikshank* lays bare the true origin of those principles in affirmative judicial intervention immunizing overtly racist terrorism against effective law enforcement.

By contrast, *Plessy v. Ferguson*, the legal profession's chosen focus for confession and atonement, merely let stand the legal product of a white supremacist state government that owed its existence to Cruikshank. With Cruikshank safely off stage, American law students are treated to a happy tale of progress from *Plessy* to *Brown* [*v. Board of Education*] starring the Supreme Court as the primary protector of civil rights — a role that, ironically, the Court carved out for itself by truncating Congress's civil rights powers in Cruikshank. Add Cruikshank, and the entire narrative shifts in ways that upset time-honored notions in the dimensions of federalism, separation of powers, popular constitutionalism, and class.

Lincoln appointed to SCOTUS: Noah Haynes Swayne, (replaced John McLean), Samuel Freeman Miller (replaced Peter Vivian Daniel), David Davis (replaced John Archibald Campbell), Stephen Johnson Field (seat established), in 1874: Salmon P. Chase, made Chief Justice (replaced Roger B. Taney)
https://en.wikipedia.org/wiki/List_of_federal_judges_appointed_by_Abraham_Lincoln

Grant appointments: William Strong, replaced Robert Cooper Grier. Joseph P. Bradley, filled a new seat. Wart Hunt, replaced Samuel Nelson. Morrison Waite, replaced Salmon P. Chase.

But how could that be with 5 Lincoln appointees on SCOTUS and 3 Grant appointees?

Many influential leaders, including Bradley and various members of Congress, read Slaughter-House to hold that although the Fourteenth Amendment did not incorporate unenumerated rights, it did include "rights mentioned in the constitution."

Cruikshank also announced the principle that the Fourteenth Amendment's Equal Protection Clause and the Fifteenth Amendment's ban on racial exclusions from voting protected African Americans only against provably intentional race discrimination. Finally, Cruikshank first excepted the Fourteenth Amendment from the general principle, announced in McCulloch v. Maryland, that Congress enjoys discretion to select the means of implementing its constitutional powers.

Judged by its jurisprudential impact, then, Cruikshank belongs at the center of our pedagogical canon.

The same conclusion follows from Cruikshank's impact on the ground. Considered together, the circuit court and Supreme Court rulings provide — if the argument presented below holds true — a dramatic demonstration of the judiciary's capacity to alter the course of political development. Justice Bradley's circuit court opinion disrupted the federal enforcement effort and unleashed a coordinated campaign of paramilitary terrorism that ousted numerous county-level Republican officials and made possible the "redemption" of Alabama and Mississippi. The full Court's ruling rendered Bradley's judgment permanent, **terminated day-to-day civil rights enforcement, and left open only the possibility of enforcing voting rights at election time — not enough to prevent white supremacists from regaining control of the black-majority states.**

Despite its enormous jurisprudential and historical importance, however, Cruikshank receives sparse attention in mainstream constitutional law texts.

...our mainstream story has long featured the conflict between national power and states' rights. The Supreme Court appears as a protector of state authority against national power in *The Slaughter-House Cases* and The *Civil Rights Cases.* Add Cruikshank, and those decisions slide to the periphery. It turns out that four of the most important interpretive issues raised by the Reconstruction Amendments

were resolved in a case [*Cruikshank*] involving the exercise of national power in support of state governments struggling for survival against paramilitary insurrection.

The Cruikshank rulings protected "state" jurisdiction only in the sense that, as argued by former Confederates and President Andrew Johnson, state authority was properly grounded not on the citizenry defined in the Fourteenth Amendment, but on the pre–Civil War (white) "people" of the state. [That is, Cruikshank protected "state jurisdiction" redefined as the will of the pre-Civil War white people, not on the will of citizens as defined in the 14th Amendment.]

With regard to the three majority-black states, this reality was painfully apparent and could not have been overlooked in the Justices' consideration of the issues. Far from protecting the rights of constitutionally sanctioned states, **the Court blocked the national government from assisting official state governments in the preservation of law and order.**

...our received narrative spotlights the Supreme Court as protector of civil rights against the elected branches, a role in which it sometimes shines (Strauder v. West Virginia and Brown) and sometimes fails (Plessy and Korematsu v. United States39).

Add Cruikshank, however, and these cases fade in relative importance. It turns out that the Court might have exerted its greatest influence on constitutional rights **not by protecting rights against the elected branches, but by stripping rights of legislative and executive protection.** Had Bradley and the full Court upheld the convictions in Cruikshank, the system of Jim Crow that gave rise to Plessy and Brown might never have existed.

...White supremacists launched a ferocious campaign of terrorism during this period, but southern state governments, Congress, federal prosecutors, and southern juries responded effectively. Lower courts made this success possible by interpreting the Reconstruction Amendments broadly. Unfortunately, as recounted in Part II, first Justice Bradley and then the full Supreme Court disrupted this dynamic in Cruikshank, which imposed strict limitations on the enforcement of civil and political rights at a moment when the political and paramilitary struggle hung in the balance. Judging from the private and public writings of Justice Bradley, considerations of class and, in particular, of labor control were important in shaping the outcome.

The "Slaughter House Cases", 3 years before, only 4 years after the 14th Amendment was ratified, were the first time SCOTUS gutted the Privileges and Immunities clause in which the 1st and 2nd Amendments were explicitly made a right which states could not abridge, with Congress empowered to enforce it against states. The evil added by Cruikshank was to apply that emasculation of rights listed in the Bill of Rights, over which a war had just been won, to defend the mass slaughter of the very people for whom the war had been fought and the Amendment ratified.

Of course the slaughter of 165 blacks for the offense of peaceable assembly is nothing compared to the slaughter of 65 million babies for the offense of being conceived.

SCOTUS' evasion of the Constitution operated then and now. Then, it was that the 14th Amendment enforced upon states regards only those rights which Congress invented and which had never before existed. Today, it is that mere lowly Supreme Court Justices can't tell if a baby of a human is a human (Roe) but even if they could tell, that shouldn't interrupt our national discussion about whether to kill them. (Dobbs). What is common to both, and that Justice Thomas struggles to correct, is that SCOTUS ignores the "privileges and immunities" of citizens, which the ratifying public understood to mean the rights listed in the first eight Amendments of the Bill of Rights. As for what rights SCOTUS *will* defend, that flip flops every generation or two.

The dissent in *Cruikshank* is interesting because it throws out the majority's nonsense about states not being subject to the 14th Amendment with:

> Persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens thereof, and the Fourteenth Amendment also provides that **no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States. Congress may, <u>doubtless</u>, prohibit any violation of that provision, and may provide that any person convicted of violating the same shall be guilty of an offence and be subject to such reasonable**

punishment as Congress may prescribe.

But the dissent finds a different reason not to prosecute the KKK mob: because there were no facts alleged in the indictment. No where, who, when.

It is suspicious to me that a jury would convict a KKK mob, a courageous feat in itself in those violent days, and there would be nothing in the record allowing any judge who cared, to reconstruct what happened. Every other case I have read explains the fact of the case. Not this case. We read what laws various defendants were charged with, but we don't know what anyone did that broke those laws. Justice Thomas provides details from other, unnamed sources.

A separate article in this document, **"What Happened to Constitutional Rights?"** quotes Thomas further, along with a few other legal scholars, to explain how the Supreme Court developed its "Substantive Due Process" sophistry to (1) ignore violations of truly fundamental rights with which we are "endowed by our Creator"; (2) create new, allegedly "fundamental", rights based not on law, tradition, religion, science, medicine, or facts of any nature, but on the personal "values" of justices, thus blocking our God-given rights with protection of Bible-defined "abominations"; and (3) take from Congress the authority, explicit in Section Five of the 14th Amendment, to restore deprivations of rights, which logically authorizes and requires Congress to define those rights which it restores.

Ezekiel 3:18 When I say unto the wicked, Thou shalt surely die; and thou givest him not warning, nor speakest to warn the wicked from his wicked way, to save his life; the same wicked man shall die in his iniquity; but his blood will I require at thine hand.

I have talked to prolifers who are afraid to completely outlaw abortion because of how mad, if not violent, that will make Democrat baby killers and voters.

The previous history includes how violent Democrat slave owners became, as well as Democrat voters who never even had slaves but who loved being cruel and insulting to blacks, when Republicans took away their slaves by force, and even gave blacks a vote equal to their own! Perhaps indeed Democrat baby killers and voters today will become as violent as they were then when we stop their baby killing – and especially if we go the next step and let unborn babies vote!

But who really should we fear, when not even Satan can hurt us until he first goes before God to get permission?

Not that we should fail to take threats seriously, and manage them as we are able. That is part of becoming mature – of doubling our capacity, as the Parable of Talents in Matthew 25 calls for. But we don't lessen our threats by retreating from evil! We plunge headlong into big, big trouble when we run from our mission of warning the wicked! We are liable to wind up fish bait, like Jonah!

1 Peter 2:13 arrange yourselves under, calls us to heal perverted gov/citizen relationships, which calls us to understand the perversion, as important as understanding all the other relationships God instituted.

That is why this evil, which would never have occurred to

Republicans as evil had they not read about it in the Bible, can never be overcome without trust in the Author of the Bible, which like public support for any issue requires public articulation of the Bible's foundation for courage in the face of overwhelming force and pain, and hope in the face of "impossible" obstacles. Which is why some of these Scriptures are included with this book about the mechanics of ending abortion and the Supreme Court's general war against God.

So what reason for courage do these Scriptures give us?

4. Crumbling Anti-Christian dogmas (*Lemon, Employment Division*); how we can fill the vacuum with Truth. Matthew 12:44 (the Supreme Court has officially abandoned the Lemon Test – which drove the Ten Commandments from schools), and a 70 page dissent by four justices shows readiness to finally overturn *Employment Division v. Smith* – which Congress struggled to mitigate with the RFRA, Religious Freedom Restoration Act. But no clear, rational alternative policy for managing "free exercise of religion" as emerged capable of rationally addressing challenges like that of the satanist "church", or of several Abomination Cases of the past.)

Chapter 4 develops two defenses which should be allowed in court, and in the Court of Public Opinion:

1. The Bible alone inspired and still supports the essential elements of American Freedom so practices based on it should have the "rebuttable presumption" (a presumption, though subject to scrutiny) of support for America's institutions, unlike practices based on religions and philosophies antithetical to American Freedom.

2. Everyone, everywhere, ought to be free to say what is true, especially when they stand ready to prove it. And free to act according to truth and not nonsense. For example, when masks were required for everyone even though the only two covid-specific RCT's in Netherlands and Bangladesh proved they were useless, yet were enforced not only by law but by moralizing with all the emotion of "blasphemy" charges of the past, while the world's leading experts pointing to facts were censored and fired, I asked for a religious exemption because these factors put masks in the category of idols – false gods – believed in despite irrefutable evidence, and my Bible makes not bowing to false gods Commandment Number One. My defense, that reality has greater authority than law when stupid laws force a choice, should have been honored.

Chapter 4 will also discuss several scenarios of future "religious exemption" applications which

current Supreme Court thinking appears unprepared to address.

What we Must Obey, vs. What we Can't Say:

Made-up "Substantive Due Process" Rights vs. God-Given, Bible-Defined Rights

Part 1: Getting Serious about Rights from Hell. *We need to treat made-up Rights from Hell like the evil that they are. Our work to drive them back needs more energy and conviction.*

Part 2: Identifying our God-Given Rights, which God gives everybody, does not "establish religion". *1st Amendment "No Establishment of Religion" doesn't chain our culture to unprotesting accommodation of abominations from Hell. Here are legal arguments to use in court now to publicly affirm our "unalienable rights" with which we are "endowed by our Creator", driving demons out of court rooms. And especially this ought to be done, in a law about saving lives, which opposes the most deadly abomination in SCOTUS' long ugly history, an issue which many ignorant judges have insisted must* not *be decided by "religious views".*

When decent moral folk can't say what they believe
Because it would offend a jerk!
God says it's no surprise
that fools' cries fill the skies!
Let's make freedom of religion work!

When God can't get a word in national discussion
'cause He lacks "credibility"
It really should be clear
that foolishness we'll hear
at great distance from reality.

Part 1: Getting Serious about Rights from Hell. *We need to treat made-up Rights from Hell like the evil that they are. Our work to drive them back needs more energy and conviction.*

The First Amendment to the U.S. Constitution says Congress can't "establish", religion, which originally meant forcing people to attend and give to a particular church denomination. It didn't stop states from "establishing" their own Christian denomination, and in fact most states had done so when the 1st Amendment was passed. But since then, most if not all states have adopted the same prohibition into their own constitutions. And even if they hadn't, the 14th Amendment gives federal courts jurisdiction over states to protect the "Freedom of Religion" of all citizens.

But "establishment of religion" has come to mean something entirely different than merely making people attend and tithe to a particular church. It has come to mean even speaking favorably of the Bible, if you are a government employee – especially if you are a public school teacher. (Although if you speak *un*favorably about the Koran or the Gita you will be fired for "discrimination".)

Guess what Gang of Nine forced that redefinition of Freedom of Religion on America?

You are not allowed to say what is true, when what is true is that some court-protected abomination – some court-manufactured "right", is a fraud, and God says so right along with what your own eyes tell you if you dare keep them open over the objections of your culture.

There are a couple of reasons for making these points here, in an appeal to lawmakers to write a law in a manner that will save lives, rather than just in some sermon.

Because we need to getting serious about Rights from Hell.

And because we need to publicly identify our God-Given rights, affirm them, defend them, and shake off SCOTUS-forged chains to abominations from Hell. We need a Biblical understanding of where to draw a practical line between "establishing religion" and "freedom of religious expression" that makes sense, is consistent, and is the most agreeable solution to all – even to unbelievers. Which, fortunately for all, is the Bible's goal as explored by America's Founders.

Something has to be done about the awe the public has for the exalted wisdom of U.S. Supreme Court justices. A lot of what they write does make sense, and deserves our credit and thanks. But when something doesn't make sense, we should get out of the mindset of

thinking “oh, it must just be us. If we were only smarter, we would understand.” Well, sometimes we would. But when what our untutored eyes tell us is affirmed by SCOTUS dissents, by national movements of lawyers trying to correct these wrongs, and by pastors showing us Bible verses identifying these new made-up “rights” as Abominations, it is time to trust God more than the Supreme Court. It is time for awe to end and correction to begin.

Our correction, when we as Americans finally take that step, needs more passion. More conviction. When Bible-defined abominations are made into court-defined rights, that is no mere legal “error”. That is a more serious threat to our constitutional Republic than what lawyers call mere “overreach”.

It is evil.

No matter how big or obscure the words are that SCOTUS uses to defend its abominations, it is evil, and thereby SCOTUS has been dragging America farther and farther into Hell.

“Substantive Due Process Rights.” The dissents and concurrences of Justice Clarence Thomas, along with the writings of many scholars, expose the incantation as not only alien to the Constitution but as a direct, conscious attack on the rights named (“enumerated”) in the Constitution, which are mostly also given in the Bible.

Our Bibles expose the “rights” invented by that incantation as abominations over which God judges nations, when “my people, who are called by my name” do not “repent and turn from their wicked way” and root out those evils.

These abominations are not just winked at off in the dark neglected edges of our culture. They are paraded right to the front of our national attention and placed on legal pedestals to which we must bow at least outwardly or face legal, not just social consequences.

The “unalienable rights” for whose protection governments are legitimately established, according to our Declaration of Independence – with which “our Creator” has “endowed” us, are pulled down from the holy ground upon which God has placed them, and replaced with abominations from Hell.

False Gods.

We don’t have to *believe* false gods before we are counted as “worshiping” them by the Bible’s meaning of “worship”. Physically bowing counts, even if you know better. The point is that others, watching you, see nothing in your response that alerts them to the

danger and the evil. To do nothing about evil, which includes saying nothing that exposes the evil to those who need to be confronted in order to stop it, and those who need to be warned in order to escape destruction, is to "worship" it, by the Bible's meaning of the word.

> *Matthew 24:14 And this gospel of the kingdom shall be preached in all the world for a witness unto all nations; and then shall the end come. 15 When ye therefore shall see t***he abomination of desolation, spoken of by Daniel the prophet, stand in the holy place,** *(whoso readeth, let him understand:) 16 Then let them which be in Judaea flee into the mountains:*

Part 2: Identifying our God-Given Rights, which God gives everybody, does not "establish religion". *1st Amendment "No Establishment of Religion" doesn't chain our culture to unprotesting accommodation of abominations from Hell. Legal arguments to use in court now to affirm our "unalienable rights" with which we are "endowed by our Creator", publicly, out loud, with words, driving demons out of court rooms and end this madness. And certainly this ought to be done, in a law about saving lives, opposing the most deadly abomination in SCOTUS' long ugly history, an issue which many ignorant judges have insisted must* not *be decided by "religious views".*

"No Establishment of Religion" doesn't require us to tolerate abominations from Hell.

Quoting Scripture in a bill will surely be accused of violating these warped principles. But censoring God has to stop. It is what is behind murdering babies and every lesser evil.

Let's develop legal arguments to use in court to get America back to a solution that matches God's solution in the Bible.

"Establishment" needs to be reverted back to its original meaning of coerced profession, participation, and payments. Which is actually pretty close to where God draws the line in the Bible:

> **Participation**: Nowhere does the Bible list human-imposed punishments for not attending meetings. Leviticus

23:3 is the only verse that even mentions a weekly Sabbath meeting, calling the Sabbath "a day of sacred assembly...in all your dwellings", apparently meaning observed by families in their homes. No further details or rules are given, much less penalties. The New Testament describes weekly meetings, especially 1 Corinthians 14, but lists no penalties for not attending. Required church attendance two centuries ago had zero Biblical support.

Under Moses' law there were three annual festivals where Israelites, or at least all the males, were called to gather at the Temple in Jerusalem. Deuteronomy 12:4, 11, 14, 17, 18, 26. The festivals are listed in Deuteronomy 16:5, 7, 11, 16. Once every seven years, Deuteronomy 31:10-13, the whole law was read to all the people. This included the essentials of criminal and civil law, hygiene, and medicine. Anyone who has read the Bible a few times and has read very much of American law can recognize God's laws as sort of a skeleton upon which the flesh of American law hangs. But again, no human-imposed penalties are given for not attending these annual conventions. And apparently whole centuries intervened between the readings of the law that were supposed to occur every seven years.

Profession. I understand why kings and other tyrants would want to force people to give lip service to the church doctrines which they wrote. But there is no precedent for it in the Bible.

There ought to be no human-imposed penalty for criminal belief but only for action. This is a principle found in the Bible and in American court precedents.

Criminal belief v. action. Deuteronomy 13:1-11 is the closest the Bible comes to a human-enforced physical penalty for believing other gods. It gives the death penalty – but not for mere criminal belief, such as the Moslem belief that getting yourself killed while beheading a Christian or a Jew will guarantee your admittance to Heaven. But for criminal *action,* such as *beheading* someone.

Notice the penalty is not for "believing" stupid religions, but for "serving" them; consider that all the nations surrounding Israel at the time sacrificed their children by throwing them in the arms of idols made red hot by fire. That

is not just criminal belief, but criminal action – of the most depraved sort.

Biblical excommunication. Matthew 18:15-17 is the closest the New Testament comes to any kind of physical penalty for wrong belief. It provides no physical penalty at all; burning "heretics" at the stake in centuries past had zero Biblical support. The only penalty Jesus establishes is formal recognition. After a thorough opportunity for the accused to defend himself, and for *all* the members of the community to reason with him, *he can be declared unreasonable.* And "treat them as you would treat someone who does not know God or who is a tax collector." (ERV)

Matthew, the only Gospel writer to record that excommunication procedure, had been a tax collector. I wonder if Jesus winked at Matthew as he spoke? Excommunication was obviously not meant by God to be irreversible, as is also clear from 1 Corinthians 5 and 2 Corinthians 2, the only Biblical record of an actual excommunication. It is followed by restoration.

American Law. The same principle is found in *Employment Division v. Smith* (1990), and long before that, in *Reynolds v. U.S.* (1878).

In *Employment Division,* Native Americans were fired for smoking illegal Peyote on the job. They applied for unemployment compensation but were denied because their actions were the reason they were fired. They actually appealed!

In *Reynolds*, "A party's religious belief cannot be accepted as a justification for his committing an overt act, made criminal by the law of the land. [Polygamy.] ...the prisoner, knowing that his wife was living, married again in Utah, and, when indicted and tried therefor, [his defense was] that the church whereto he belonged enjoined upon its male members to practise polygamy [and it was even] with the sanction of the recognized authorities of the church, and by a ceremony performed pursuant to its doctrines, [that he] did marry again....[which is] what he believed at the time to be a religious duty."

So even *Freedom of Religion* as practiced in American law and courts matches the freedom of conscience enjoined

in the Bible. It is Freedom of Speech to say what you sincerely believe is true. If it is not, others are called to reason with you, and if you are unreasonable, others are allowed to say so.

This is unlike the experience in other religions, where *profession* is criminalized. Where Christians are tortured for merely stating what they believe.

Payments. Tithes (10%) were collected under Moses' laws. Numbers 18:21. But I find no human-imposed penalty for non-payment. In fact 2 Chronicles 31:4, 10 records where the Levites had been poor and hungry because people weren't tithing. No system of tithe or tax collectors is endorsed by God, that I can find.

That is especially remarkable because the Levites didn't just conduct "religious" functions. The laws they administered were what we call criminal and civil laws, which included sanitation and medicine. If we copied God's laws at that level, income taxes and sales taxes would be voluntary!

How different that is than today where government collects somewhere between 30% and 40% of all we make, and then our pastors tell us not to strategize any action about that on church premises because that is "politics", but to go ahead and pay *another* 10% on top of that!

Ezekiel 45 lists the taxes collected for the "prince", or the executive branch of government; that is, the federal government. It is about 2% of only four commodities: wheat, barley, oil, and sheep. While vs. 8-9 say "my princes shall no more oppress my people....Thus saith the Lord GOD; Let it suffice you, O princes of Israel: remove violence and spoil, and execute judgment and justice, take away your exactions from my people, saith the Lord GOD." 10% for the Levites who manage all criminal and civil law with their courts and police, and 2% for the federal government: 12% for both "church" and "state". Just one of many reasons I say God's laws are the most agreeable possible, even for unbelievers.

To coerce, or force, others to worship your faith by making it a crime not to, is the target of the "establishment" clause, and I think there is no Christian left who wants people put in jail or tortured for not

coming to your church, nor do you want to be tortured for not coming to mine, or hung upside down so all the change will fall out of your pockets for my church.

As anyone knows who studies history or who is on a mailing list of missionaries, nations dominated by other religions or by atheism have terrible punishments for Christians who refuse lip service to their false gods.

In reality, all laws are influenced by religion. Every law enforces an opinion about what is right and wrong for a situation. In other writing I go into great detail about the correlation between American law and Bible commandments, laws, and principles. Laws coerce by punishing crimes that harm others, and laws unavoidably differ according to the dominant religion of the voters that authorize them.

Two examples for now: Where the Bible dominates, professing Islam is *not* a crime while murdering your pregnant daughter to save your family's "honor" *is*, while where the Koran dominates, professing Christianity *is* a crime while murdering your daughter for any reason *is not.* Below are the Scriptures indicating to me that God doesn't want that either; that burning "heretics" at the stake a few centuries ago had zero support from the Bible.

This is a good time for Americans to think about the boundaries they want around "establishment of religion", because SCOTUS has officially abandoned its insane "Lemon Test", without clarifying a replacement.

In *Shurtleff v. Boston* 596 US _ (2022), Justice Gorsuch wrote a "Concurrence" explaining that the "Lemon Test" infamous for censoring the Ten Commandments in schools hasn't been used by SCOTUS for years so governments should stop relying on it.
https://supreme.justia.com/cases/federal/us/596/20-1800/#tab-opinion-4576620

See also *Kennedy v. Bremerton School District June 2022 majority opinion by Gorsuch https://www.uncoverdc.com/2023/08/10/theres-a-fresh-wind-blowing-for-religious-freedom-in-america/*

Gorsuch argued that the Establishment Clause rested on the 1971 case, Lemon v. Kurtzman, out of which rose what is called the "Lemon test."

The Lemon test holds that "the law or practice will pass constitutional muster if it has a secular purpose, its principal effect does not advance or inhibit religion, and it does not create an "excessive entanglement with religion."

To clarify, Lemon v Kurtzman is more specifically related to school funding. It prohibited the government from providing supplemental

funding to religious schools because it violated the Establishment Clause and the separation of church and state.

Dismissing Lemon as having been *"long ago abandoned,"* Gorsuch, instead, urged adherence to the Constitution as intended by its drafters. He called upon courts to look at "*history and the understanding of the drafters of the Constitution—which the court of appeals failed to do."*

Justice Gorsuch also bristled at the District's argument that Coach Kennedy might have been seen to be coercing students to pray with him. Gorsuch wrote, *"There is no indication in the record that anyone expressed any coercion concerns to the District about the quiet, postgame prayers that Mr. Kennedy asked to continue and that led to his suspension."*

Gorsuch compared Kennedy's case to others that may have demonstrated problematic coercion and, in doing so, argued Kennedy's prayers *"were not publicly broadcast or recited to a captive audience,"* and students *"were not required or expected to participate."* Gorsuch also pointed out that the school had no *"duty to ferret out and suppress religious observances even as it allows comparable secular speech."* Instead, Gorsuch again adheres to the Constitution as one *"that neither mandates nor tolerates that kind of discrimination."*

Ultimately Gorsuch concluded, *"the District's challenged policies were neither neutral nor generally applicable. By its own admission, the District sought to restrict Mr. Kennedy's actions, at least in part because of their religious character. Prohibiting a religious practice was thus the District's unquestioned 'object.'"* Gorsuch also wrote, *"The District thus conceded that its policies were neither neutral nor generally applicable."*

Kelly Shackleford, President and CEO of First Liberty Institute, recorded his sincere message two weeks ago for a First Liberty project called Restoring Faith in America (RFIA). First Liberty is the largest legal organization in the country engaged in protecting religious freedom. Shackleford discusses the consequential SCOTUS decision as an opportunity to turn the tide. He encourages and even implores Americans, especially pastors, to seize this "lifetime" opportunity to restore religious freedom as a fundamental Constitutional right in the U.S. Shackleford writes on the RFIA website:

"This is a first simple yet powerful step we can take to restore faith in our schools. It could even help spark revival throughout our country. God has opened an incredible door for all Americans to express their faith and bring faith back to our communities."

https://freedomheadlines.com/freedom-wire/teacher-makes-excellent-point-if-educators-can-teach-children-about-gender-i-can/?utm_medium=email&utm_source=sparkpost&utm_campaign=regular

If schools are allowed to teach gender identity to elementary children, then I, as an elementary educator should also have the freedom to teach them about how God was not confused when He designed them! I should be able to teach them about Jesus and about how God created them a boy and a girl, on purpose, and for a purpose. If YOU have the freedom to teach MY child that they might be confused about their gender, then I should also have the liberty to teach YOUR child that God did not make a mistake when He created them. I think it's time we even out the playing field @Kristan Whann

Here is a bit of his explanation:

Truth Test v. Lemon Test

Today's case is just one more in a long line of reminders about the costs associated with governmental efforts to discriminate against disfavored religious speakers. See Good News Club v. Milford Central School, 533 U. S. 98, 120 (2001); Lamb's Chapel, 508 U. S., at 392–397; Rosenberger v. Rector and Visitors of Univ. of Va., 515 U. S. 819, 823–824, 845–846 (1995).

...it seems that founding-era religious establishments often bore certain other telling traits. See M. McConnell, Establishment and Disestablishment at the Founding, Part I: Establishment of Religion, 44 Wm. & Mary L. Rev. 2105, 2110–2112, 2131 (2003) (Establishment and Disestablishment).

First, the **government exerted control over the doctrine and personnel** of the established church.

Second, the government **mandated attendance** in the established church and punished people for failing to participate.

Third, the government **punished dissenting churches** and individuals for their religious exercise.

Fourth, the government **restricted political participation** by dissenters.

Fifth, the government **provided financial support** for the established church, often in a way that preferred the established denomination over other churches. And sixth, the government used the established church to carry out certain civil functions, often by **giving the established church a monopoly** over a specific function. See id., at 2131–2181.

Most of these hallmarks reflect forms of "coerc[ion]" regarding "religion or its exercise." Lee v. Weisman, 505 U. S. 577, 587 (1992); id., at 640 (Scalia, J., dissenting); Van Orden, 545 U. S., at 693 (THOMAS, J., concurring)

These traditional hallmarks help explain many of this Court's Establishment Clause cases, too. This Court, for example, has held unlawful practices that restrict political participation by dissenters, including rules requiring public officials to proclaim a belief in God. See Torcaso v. Watkins, 367 U. S. 488, 490 (1961).

It has checked government efforts to give churches monopolistic control over civil functions. See Larkin v. Grendel's Den, Inc., 459 U. S. 116, 127 (1982).

At the same time, **it has upheld nondiscriminatory public financial support for religious institutions alongside other entities.** See Espinoza v. Montana Dept. of Revenue, 591 U. S. ___, ___–___ (2020) (slip op., at 18–22); Trinity Lutheran Church of Columbia, Inc. v. Comer, 582 U. S. ___, ___–___ (2017) (slip op., at 14–15); Zelman v. Simmons-Harris, 536 U. S. 639, 662–663 (2002).

The thread running through these cases derives directly from the historical hallmarks of an establishment of religion—**government control over religion offends the Constitution, but treating a church on par with secular entities and other churches does not.** See Establishment and Disestablishment 2205–2208.

These historical hallmarks also help explain the result in today's case and provide helpful guidance for those faced with future disputes like it. As a close look at these hallmarks and our history reveals, "[n]o one at the time of the founding is recorded as arguing that the use of religious symbols in public contexts was a form of religious establishment." Symbol Cases 107. For most of its existence, this country had an "unbroken history of official acknowledgment by all three branches of government of the role of religion in American life." Lynch, 465 U. S., at 674.11 In fact and as we have seen, it appears that, until Lemon, **this Court had never held the display of a religious symbol to constitute an establishment of religion.** See Brougher 1–2; Symbol Cases 91.

The simple truth is that no historically sensitive understanding of the Establishment Clause can be reconciled with

a rule requiring governments to "roa[m] the land, tearing down monuments with religious symbolism and scrubbing away any reference to the divine." American Legion, 588 U. S., at ___ (slip op., at 20). Our Constitution was not designed to erase religion from American life; it was designed to ensure "respect and tolerance." Id., at ___ (slip op., at 31).

Unanswered Question

It is good that SCOTUS has stepped back from discriminating against Christianity somewhat. But many of us American worry-warts wonder what problems remain from the fact that SCOTUS *still* treats the Christian religion, whose core principles widely overlap the core principles of American Freedom as no other religion does, as no *better or more beneficial* than bloodthirsty religions which dehumanize unworthy people groups. Shall Satanism and Islam be given equal access to the forums of our government and culture?

The solution I propose:

The Truth Test

Courts should not censor any government employee's personal faith statements which cause no coercion. Any government employee who wants to explain the wonderful Biblical origins of government policy in educational materials, including in schools and outdoor displays, should try this defense in court: (1) the statement is true and can be proved in court, and/or (2) it advances the principles of American freedom and law by giving Bible believers, who are about 70% of our population, reason to have more respect for our institutions. And (3) these two tests satisfy the "legitimate government interest" test and should displace the Lemon test.

The "disclaimer" is that an individual bureaucrat's statements are not the statements of any other bureaucrat, except to the extent there are actual authorized joint statements, whether of departments, schools, cities, or states.

(This is no mere "oughta be" statement; it is offered as a legal defense *now*, a challenge to *current* Establishment Clause

juridprudence.)

That a statement is true, and can be proved, ought always to be a courtroom defense against almost any prosecution for any statement. (When speech is prosecuted as a "threat", the additional clarification should be that it is true independently of the existence or actions of the speaker.)

Government should be allowed to promote its voter-authorized mission by articulating its origins in religion. And no human being should submit to any restraint on his articulation of what is true (and relevant to the context in which it is stated).

Claims favoring the Bible should be specific enough, and should include enough supporting facts, to be provable in court. When supporting facts are arguable, that should be acknowledged, where opportunity is allowed. A court challenge should be dismissed unless it can prove the claims are clearly wrong.

Courts don't always care about facts. Roe and Dobbs were decided without resolving "when life begins". The 1925 "Scopes Monkey Trial", about the constitutionality of a Tennessee law forbidding the teaching of evolution, didn't allow scientists to testify! (https://www.britannica.com/event/Scopes-Trial) But any court that refuses expert testimony on the truthfulness of a government employee's statement about religion has no business ruling on it. This needs to be argued in court, and inserted in law.

"Establishment" needs to be reverted back to its original meaning of coercion of profession, participation, and payments.

Another example: where the Bible dominates, professing Islam is *not* a crime while murdering your pregnant daughter to save your family's "honor" *is*, while where the Koran dominates, professing Christianity *is* a crime while murdering your daughter for any reason *is not.*

The prohibition of "establishment of religion" needs a clarification that still allows laws, all of which are based on views about what is right and wrong in its given situation, to be passed! Yet which protects Freedom of Conscience to say what one sincerely believes to be true.

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof"

Indeed, the Bible is not a Swordpoint Conversion religion. Yet it

must be guarded against that voters may choose to add the sword to their faith, as they did in pre-Revolution American history and as every other nation has done throughout most of human history. There is modern urgency about getting this right. State religions are growing: vaccine madness, "misinformation" censorship.

The Latest National Idols.

"False Gods" and "state-established religion" is the correct category for fervor of support for the disruptive vaccine, mask, and lockdown mandates, which, having no support from any evidence, can only be explained in religious terms.

Masks, along with vaccines, are made into idols. Not just as a figure of speech. Reverence for them is enforced by social pressure as judgmental as reactions to blasphemy. They are made the icons and rituals of government-established religion. A very dark anti-Christian religion which shutters churches and kept bars, casinos, and abortuaries open as "essential services". A religion literally preached in a literal sermon by New York's governor. (www.youtube.com/watch?v=NXaP76musWM&t=2s)

The claim of high moral authority, combined with a claim of a strong basis in evidence which is only sustained by censoring opposing evidence since it has zero evidence, identifies government and employer vaccine and mask mandates as the icons and rituals of false gods supported by blind faith.

Blind faith in a lie won't make it true. Government pressure on citizens to physically, visibly, and perpetually participate in a man-made charade imbued with elevated moral authority fulfills every element of a "government-established religion" that I can think of. It is as stupid as our ancestors were, bowing down to carved tree stumps.

Where even Justice Thomas would not go. An example of a restriction of religion was *Employment Division v. Smith,* where natives Americans were allowed to *believe* peyote, an illegal drug, has religious importance, but that didn't excuse disobeying laws. They smoked it on the job, were fired, they filed for unemployment compensation, which was denied because it was their actions which were the reason they were justly fired. The court eventually ruled against them.

Even though "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof...." if our "free exercise" of our religion will violate laws, courts do not automatically genuflect to whatever nonsense we choose to "believe".

However, even then, courts make "reasonable" accommodations of beliefs. But when "free exercise" violates a "legitimate, compelling government purpose", no go.

This actually is the line drawn by God in Deuteronomy 13:1-6. God does not model a "swordpoint conversion" religion. There are no human-enforced penalties for sincerely believing false gods, heresy, stupidity, or anything else. For fraud, maybe. But for "inciting to crime", for proselytizing others to "serve" "gods" whose "service" requires evil crimes in the order of child sacrifice or sodomite prostitutes in church, (translated "sodomites" in the KJV) there is a severe penalty.

Anti-Semitism is an example of speech that "incites crime", as demonstrated by the volume of physical persecution against Jews in proportion to lies told about them, even though the same content of lies told against other groups is much less likely to incite violence. This illustrates how the level of actual violence associated with public dehumanization of a people group justifies greater scrutiny of the truthfulness of statements made about the group.

It is also easily demonstrable that virtually every basic principle of American law, with a handful of notorious exceptions (which we recognize as notorious because of Bible influence) which have shifted from one generation to another, was inspired by and still noticeably follows Bible principles.

It has become against many rules to say what is true, in many places. Where saying the truth is not punished according to written policy, truths about the Bible and about God are vigorously punished by unwritten policy, by informal rejection, persecution, and "canceling".

That must change. In courts of law, and in the Court of Public Opinion. These are suggestions how Christians can argue for this change.

ACCOMMODATION. To this point the discussion has been about how "No Establishment of Religion" affects the freedom of religious *expression.* Words.

"It's true, and I am ready to prove it" should be a defense for any speech, anywhere.

"Nor prohibit the free exercise thereof" (of religion) is the next phrase in the 1st Amendment. That phrase calls for "accommodation", meaning exemption from various laws because they conflict with one's

religion.

The Jewish Coalition For Religious Liberty warned in its amicus brief in Dobbs v. Jackson about "a novel view under which their religious views would dictate what laws may govern every American, even those with different faiths or no faith at all."

The Jewish xxx amicus is about the Church of Satan asking for "accommodations" of their belief that they should murder their babies. The amicus is actually about the "church" wanting not merelyJewish Coalition For Religious Liberty warned in its amicus brief in Dobbs v. Jackson about "a novel view under which their religious views would dictate what laws may govern every American, even those with different faiths or no faith at all."

Finding #6, Note #7

[http://www.supremecourt.gov/DocketPDF/19/19-1392/184865/20210726093205304_19-1932%20Amicus%20Brief%20of%20Jewish%20Coalition%20for%20Religious%20Liberty.pdf]

JCRL noted a 1992 amicus by Planned Parenthood that didn't just ask for an exemption from a law, but for the repeal of a law that someone doesn't believe in: "in the face of the great moral and religious diversity in American society over abortion and in the light of Jewish traditions which in some cases command abortion, and in many others permit it, the existing constitutional rules, set down by Roe v. Wade, should be maintained ... ." JCRL said "Under the religious-veto view of the Free Exercise Clause, every decision in favor of a religious adherent would entirely foreclose the state from pursuing its chosen interests." individual accommodation for their own members, but to strike down all prolife laws affecting all the rest of us. I am concerned about both.

"Legitimate government purpose", also called "compelling

government interest", are useful phrases found in court writings. It is because of the "compelling government interest" in saving lives and discouraging behaviors that bring on early death, that virtually every "moral issue" can be decided on the basis of what the Bible says.

Sodomy used to be outlawed, and still should be, because it shortens human lifetimes by about twice as much as smoking, by spreading terrible diseases that are not limited to sodomites.

Adultery used to be outlawed, and still should be, because it

(1) spreads disease – though not as much as sodomy;

(2) is the primary trigger of divorce, which (a) devastates our economy by putting parents in poverty, doubling their rent and utilities costs, (b) throwing workers in jail for nonpayment of rigid child support based on what workers could earn before their hearts were ripped apart, and jailing more for "domestic abuse" which our laws accept as occurring though there is no evidence, and for violating "no contact orders" that are passed out like candy at a parade even when neither spouse wants it; divorce also trashes the academic progress, mental health, and criminal incidence of children;

(3) increases violent crime, triggering domestic violence including murder, and by destabilizing the family bonds – no one who commits adultery does it to benefit the children – dramatically increasing the percentage of children who become criminals.

Drinking was once outlawed by a Constitutional Amendment, but that was repealed 12 years later; not because it failed to improve health or grow the economy for nine of its 12 years, but because too many people didn't think the depression made them poor enough so they wanted to drink. Even this follows the Biblical precedent of 1 Samuel 8 where the people insist on giving up major blessings of God's laws – the right to vote, even – and God's response was to warn them how stupid that was, but then if they still insisted, to let them.

"Free exercise" of religion was written when Christianity was so dominant that "serving" violent, pagan religions wasn't on anyone's "radar". Christianity supports, feeds, inspires American freedom and therefore merits more "accommodation" than violent, anti-freedom religions and philosophies. An argument should be accepted in court that the accommodation in question is consistent with the religious principles that support, feed, and inspire our freedoms, and evidence of that should weigh in favor of the accommodation.

But where laws already address the accommodation, courts need to get out of the business of second guessing legislatures.

Even that is a fundamental Biblical principle. 1 Samuel 8 dramatically illustrates how not even God will stand in the way of a majority of voters determined to disobey Him by voting for really stupid, terrible, self-destructive laws. Courts should not be readier to impose their will on voters than God.

Except when voters vote to violate their own Constitution, or any of its Rights; then, courts are authorized by the 14th Amendment to require a super majority of voters, 75% of states, to change the Constitution first.

It should be welcomed as relevant during national debate to observe which laws align with religions that support our freedoms and which align with religions that are alien and hostile.

Because those facts are relevant, and if proved, true. The truth should also be treated as relevant and welcome, about what God says about consequences, when voting majorities reject God's warnings and embrace abominations. That would also follow the Biblical precedent of 1 Samuel 8, where God told Samuel to warn people of the consequences of throwing away their freedoms, but to let them do it if they still insisted.

Closing thoughts on the Lemon Test.

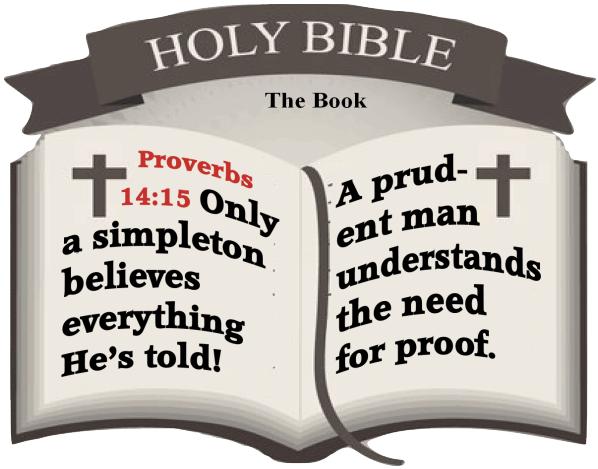
The Lemon Test, *Lemon v. Kurtzman* (1971) Although SCOTUS promises to ignore it from now on, here are reasons it made no sense which I think worth understanding. It had three tests.

"1. Does the action taken by the government, or the law established, have a legitimate secular purpose?"

This has little if any objective meaning because most "secular" government purposes, especially of the American past, have their origins in the Bible. This is proved by the fact that governments dominated by other major religions claim very different if not hostile purposes.

For example: hospitals. What anti-Biblical religion or philosophy cares so much about others, especially the sick and "useless", as to invest in hospitals to care for large numbers of them? Or schools: what other religion even values literacy? Much less enough to pay to educate *other people's* kids?

That is why hospitals and schools around the world were founded by Christians, not by other religions. Barbarians have taken over many of them, but not necessarily to further education or physical care; less noble purposes have evolved.



"2. Is the primary goal of the government's action, or law established, have the effect of advancing or inhibiting any religion?" (This is the second "Lemon Test".)

Same as above: much American law of the past advances Christianity, being inspired in its broadest outlines by the Bible.

"3. Does the action taken, or law established, allow for an intertwining of government with religion? If so, it violates the [Establishment] clause."

This is an ignorant criteria on its face. Every law is justified by a view of what is right or wrong for that situation, a view about which major religions generally disagree, which we know because religions take nearly opposite views on almost anything that matters.

"Does government expression or action give direct aid to religion in a manner that tends to establish a state church? Does it coerce people to participate in or support religion against their will?" (We are moving on from the "Lemon Test" to the "Coercion Test" in *Allegheny County v. ACLU*, 1989.) Well, this test is still in place. Let's leave it there.

5. Solutions: Understanding Establishment of Religion: a Tour through Reality with the Bible as our Guide

"Judicial Review" has no Authority

There is widespread agreement that courts go too far in overturning laws. But hardly any agreement on how far back courts ought to be bridled.

Actually maybe there is, among people who think about it, but hardly anyone thinks about it so it is hard to find.

The Lonang Institute in its amicus in Dobbs explains that of course courts state what the law is and what the Constitution says, but the idea of courts having the final say over legislatures in what the Constitution says, with no equal authority in legislatures, is a recent invention, and a most ugly one. www.supremecourt.gov/DocketPDF/ 19/19-1392/185037/20210727131024868_19-1392%20tsac%20Lonang%20Institute.pdf

The following is from their amicus in Dobbs:

> The high watermark of the Supreme Court misuse of judicial review came in Cooper v. Aaron, 358 U.S. 1 (1958). In its opinion, the court remarked that Article VI of the Constitution makes the Constitution the "supreme Law of the Land." So far, so good. In 1803, Chief Justice Marshall, speaking for a unanimous Court, calling the Constitution "the fundamental and paramount law of the nation," declared in Marbury v. Madison, 1 Cranch 137 (1803) that "It is emphatically the province and duty of the judicial department to say what the law is." This is a description of the legitimate power of judicial review found in Article III, Section 2.
>
> From this legitimate recognition of the power of judicial

review, the Cooper v. Aaron Court stepped back to Eden. The Court first expanded its own opinion in Marbury asserting that Marbury actually "declared the basic principle that the federal judiciary is supreme in the exposition of the law of the Constitution." 358 U.S. at 18 (emphasis added). Recall that Chief Justice Marshall said the judiciary has a duty to say what the law is. He said nothing, however, about the Court's opinions as supreme. Cooper added the "supreme" element.

In its ruling, the Court in Cooper made the egregious error of misconstruing the Supremacy Clause of Art VI that "This constitution and the laws of the United States which shall be made in pursuance thereof" shall be "the supreme law of the land." The Court, without either textual or historical support, construed "the laws of the United States" to include judicial opinions of the Court, when clearly, historically and textually, it only referred to acts of Congress which became law when made in pursuance of the Constitution.

Further, the Constitution grants no "supreme" expository power to the Court. It is not found in Articles III or VI. It is not there. What is found in Article VI is that the Constitution, laws and treaties "shall be the supreme law of the land." Nothing is said about Supreme Court opinions being supreme law, let alone being law at all. The Constitution extends no power to the Court to claim that even its legitimate constitutionally based opinions, are the sole and exclusive meaning of the Constitution itself.

The judicial power to review cases arising under the constitution, laws and treaties is stated in Article III, section 2, but that power is not the power to rewrite the Constitution itself. It is not the power to authorize the court to sit as a perpetual constitutional convention. It is not the power for the court to write into the Constitution whatever it wants, or the power to strike from the Constitution has a duty to say what the law is.

D. According to The Law Of Nature, Judicial Power Extends To Issuing Orders In Cases And Controversies, Not To Making Rules Of General Applicability.

This exercise of judicial power is reflected in the difference between a "rule" and an "order." A court cannot issue a rule under the law of nature, because the nature of any rule is

that it is an action of general application. **Rules apply not only to parties in a case, but to everyone. The court's judgment on the other hand must be confined to an order for its contempt power to be exercised lawfully. Otherwise, a court could hold anyone in contempt for simply disagreeing with its opinion. This distinguishes judicial power from legislative power. Only the legislative power can make laws; the judiciary can merely apply pre-existing laws to the facts in a given case.**

Not only is the law of nature of judicial power responsive rather than initiative, and limited to giving orders to parties rather than rules to all persons, the law of nature of judicial power is restricted to judgment, not will. All the judge has is judgment to make known the statute or Constitution's text. This distinguishes judicial power from executive power.

It follows that if judges do not make law, which by definition is a "rule," then judges cannot issue "rules," and may only issue orders. A rule binds the people generally, and is by nature legislative, whereas an order binds only the person to whom it is directed. Thus, Article III extends the judicial power of the courts of the United States only to "cases" and "controversies." If a judge could issue a rule which governed such disputes, the judicial power would not be limited to actual cases and controversies. [I]f the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made in ordinary litigation between parties in personal actions, the people will have ceased to be their own rulers....15

15 Abraham Lincoln, First Inaugural Address, March 4, 1861.

This Court's substantive due process jurisprudence is an example of rulemaking simply because it purports to add new text to the Constitution itself. For this reason, it is contrary to the law of nature of judicial power. The opinion in Roe v. Wade can also be examined to determine whether it was in the nature of an order or a rule. Remarkably, the Court did not issue an instruction to Texas declaring its statute unconstitutional and unenforceable. Rather, it specified a trimester formula was essentially a legislative rule purporting to bind all future statute

governing abortion in every state. Yet only Texas was a party to the case. Hence, the Court's opinion again lacked an essential element of the exercise of judicial power, that is, the issuance of an order, not a rule.16

Christian Legal Society (http://www.supremecourt.gov/DocketPDF/19/19-1392/185104/20210728115957257_19-1392%20Amicus%20Brief%20%20Christian%20Legal%20Society%20et%20al.pdf) Some of this Court's most ignominious decisions emerged from expansive and unchecked conceptions of substantive due process. The "most salient instance . . . was, of course, the case that the [Fourteenth] Amendment would in due course overturn, Dred Scott v. Sandford." Glucksberg, 521 U.S. at 758 (Souter, J., concurring in the judgment). A half-century later, Lochner v. New York inspired a line of "deviant economic due process cases" that "harbored the spirit of Dred Scott in their absolutist implementation of" substantive due process. Id. at 761. Roe fares no better under a proper constitutional analysis.

This "logic" again supposes the reader/hearer of a message is the sole interpreter of another's speech.
This sort of dislogic is at play today in the Trump investigations and trials; it supposes that any powerful group, no matter how small, crazy or morally destructive their own agenda is, can interpret what you or I say and morph it into their latest virtue-signaling harm.
We warned of this in the 1990s when a federal court allowed simple words of protest to be recast as "violence" or threats of violence against those who murder babies for a living. We warned then that a nation will always reap

according to the fruit it sows. We warned that eventually those who think they are rich, popular or powerful enough to keep harm at bay will also suffer under such evil fruitfulness. Thus we see even the world's wealthiest men are being targeted for any supposed hint of "hate speech." (Elon Musk now walks on eggshells.)

I do not send out much mail these days because my job has been to warn of these coming distractions, and since they are here in every form, a warning is no longer holding the possibility of repentance and restoration. At least, not from me. I would that God would task me with such a message along those lines, but He sits enthroned in silence, perhaps His chief purpose to allow evil to run its full course so that His justice is all the more magnified when it becomes apparent even to the stumbling drunkards (Isa 28) who think they hold all power in their trembling hands.

Please encourage Bill Whatcott as he has been faithful against the wicked of this age and has withstood the false priests and prophets of this age who preach compromise and pedal the illusion they

have won.
GOD ALWAYS HAS THE FINAL WORD TO HIS GLORY.
cathy

Catherine Ramey
"Justice and only justice shall you do."

From: Bill Whatcott <billwhatcott@gmail.com>
Sent: Friday, August 11, 2023 5:15 PM
To: Bill Whatcott <billwhatcott@gmail.com>
Subject: Ontario Court of Appeal orders Bill Whatcott to go on trial again for Gospel flyer delivered at Toronto Homosexual Parade 7 years ago

Dear Friends,

To read the Ontario Court of Appeal decision and my commentary on this ruling go here:

https://billwhatcott.wordpress.com/2023/08/11/ontario-court-of-appeal-orders-bill-whatcott-to-go-on-trial-again-for-gospel-flyer-delivered-at-toronto-homosexual-parade-7-years-ago/

6. Solutions: Judicial Accountability Act: How Legislatures can stop judges from legislating

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Judicial Accountability Act: How Legislatures can stop judges from legislating

Summary: what the bill accomplishes

1. **No district court injunctions. A single district judge can't overturn a law.** Any legislature is well within its constitutional authority to prohibit any *district* court (lower court) from invalidating a law – only the *Supreme* Court should be allowed to do it, and only within 90 days. Letting a single lower court judge overturn the work of 150 lawmakers which include several attorneys and constitutional scholars is insane. Any challenge to a law should go directly to the most experienced judges in the state.

2. **Supermajority required. It takes 5 of the 7 justices of the Supreme Court to overturn a law.** A simple majority of justices overturning by one vote a law produced by tens of thousands of people over several years is a scandal. It has nothing to do with wisdom, law, or the Constitution. When judges can't even agree with each other, unanimously, whether to destroy the work of the majority of voters and their representatives, they prove they are not so much wiser than

everybody else in their state to be trusted with such unbridled power. At the very least any injunction should have their unanimous support before they should have any power to shut down the will of their whole state. A supermajority that is short of unanimous may be OK if it is not the final word but is followed by further opportunities for the legislature to restore their law.

3. **Expedited. The Court has to rule in 3 months if the court blocks a new law from taking effect with a Temporary Restraining Order. If the court invalidates an existing law, the invalidation doesn't take effect for one year.** Courts bottling up laws with injunctions for years while they make up their minds should make them ashamed. They don't need years. No controversial law is passed without months if not years of scrutiny by attorneys for and against. Their briefs are already ready. They already know what the other side will say. They don't need years to think of what to say or how to respond. Maybe a day. Maybe two.

Nor do judges need months to read the briefs for several weeks to bring themselves up to speed on the issue. The law has been in the news for years. There is no honor in willful ignorance of the issues until the first brief is filed.

Laws are passed to correct serious wrongs. Years of work costing millions of dollars goes into fixing problems. There is no good reason to delay justice for the citizens of a state for years to wait while judges try to agree among themselves whether to allow justice as understood by the majority of voters and lawmakers.

4. **Discussion. The legislature may compel designated justices to attend a public hearing to debate the constitutionality of the law within one year of such a ruling, by passing a resolution.** Provided a supermajority of the Supreme Court has agreed on an injunction in less than a month, the legislature should then be able, within the next year, to compel the attendance of judges under their jurisdiction to discuss and debate, with specified legislators in a public hearing, the constitutional justification for [or necessity of] that judicial exercise of the legislative function.

5. **The legislature may overturn the invalidation by a 60% vote, by a resolution, leaving the last word, the final verdict, with incredibly well informed voters** (through ordinary elections of lawmakers and retention of justices). The resolution overturning the invalidation would give reasons responsive to the reasoning of the judicial ruling.

The Bill: Iowa SSB3181 2020 AD

A BILL FOR

An Act regarding legislative oversight of supreme court decisions, and including applicability provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Introduction/Legislative Findings

Section 1. NEW SECTION. 602.1615 Legislative findings —— challenges to the validity of a statute —— exclusive jurisdiction —— public hearings —— legislative oversight.

1. The general assembly finds and declares all of the following:

If the legislature can even impeach, it can at least ask questions

a. The power to impeach subsumes reasonable less severe remedies.

Lawmakers take an oath to uphold the Constitution too

b. The intent of this section is to provide for a mechanism in which to resolve disputes regarding the constitutionality of laws between the courts and the legislature, both of which are composed of constitutional scholars.

Jurisdiction of courts is restricted by the legislature

c. Article 5, section 4 of the Constitution of the State of Iowa states that the supreme court is "a court for the correction of errors at law, **under such restriction as the** general assembly may, by law, prescribe **. . .".**

Judicial power to invalidate laws is not given by the Iowa Constitution

d. Article 3, section 20 of the Constitution of the State of Iowa gives the legislature the power to impeach judges for "malfeasance in office", which is generally defined to include acting without authority and abusing power. The power to impeach subsumes all lesser remedies.

e. The Constitution of the State of Iowa does not give the

courts of this state the power to invalidate laws enacted by the legislature, to require the legislature to enact different laws, or to publish rulings that have the same effect as new legislation. Article 3, section 1 of the Constitution of the State of Iowa states: "The powers of the government of Iowa shall be divided into three separate departments —— **the legislative, the executive, and the judicial: and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any function appertaining to either of the others**, except in cases hereinafter expressly directed or permitted".

The Legislature must get involved when courts legislate unconstitutionally

f. Although the courts of Iowa have usurped those powers without constitutional authority, it has been done for reasons which the general assembly respects. The general assembly

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welcomes the expertise and guidance of the courts in evaluating the constitutionality of its laws. But when the reasoning of rulings which function as legislation appears to be not only unsound, but unconstitutional, the general assembly has the constitutional duty and authority to determine that judges and justices have abused their power and exceeded their authority, which are grounds for impeachment under the malfeasance in office clause.

g. A remedy short of impeachment should advance wisdom, build consensus, and educate voters so that informed voters may hold both judges and legislators accountable. Article 1, section 2 of the Constitution of the State of Iowa states: **"All political power is inherent in the people.** Government is instituted for the protection, security, and benefit of the people, and **they have the right, at all times, to alter or reform the same,** whenever the public good may require it".

The Meat of the Bill: the Enforcement Section

Lower courts can't invalidate laws

2. The supreme court shall have discretionary and exclusive original jurisdiction over any challenge to any law. A district court or the court of appeals shall not invalidate a

law on any grounds.

Supreme Court must rule within 3 months, by supermajority, when the Court blocks a *new* law. When the Court blocks an *existing* law the block will not take effect for one year

3. A decision of the supreme court that invalidates **existing law** or has the effect of creating new law shall not have any effect unless agreed to by five or more of the seven justices, and otherwise shall not have any effect for one year. The supreme court shall also have the power to suspend implementation **of a new law** provided the supreme court produces an **expedited ruling** within three months of the law's enactment.

Public Hearing

4. a. Within one year of the date a supreme court decision is published that invalidates existing law or has the effect of creating new law, the general assembly may, by resolution, compel the attendance of specified justices to a public hearing to discuss and debate the justification for the decision with members of the general assembly. A public record of the hearing shall be made.

Impeachment grounds inquiry

b. During or after the hearing, the general assembly shall

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determine if grounds to begin impeachment exist as to any of the justices present at the hearing for acting without authority or malfeasance in office.

Judges may improve their ruling

c. Based on the results of a hearing commenced pursuant to this subsection, a justice whose presence was required at the hearing may change the justice's vote or alter the justice's individual contribution to the decision.

Legislature may overturn court invalidation

5. A supreme court decision invalidating existing law or having the effect of creating new law will not take effect if two-thirds of both the senate and the house of representatives approve a resolution to overturn the decision within one year of the date the decision was published. The resolution must specify the basis for overturning the decision, including

its reasoning, not to be limited by court precedent that is responsive to the supreme court's initial published decision, and must be documented by expert testimony and constitutional authority.

Legislature may add statement to the ruling

6. The general assembly may issue its own statement to a published supreme court decision that invalidates existing law or has the effect of creating new law if done within one year of the date the decision was published. The statement must regard the constitutionality of the invalidated existing law or the newly created law.

Sec. 2. APPLICABILITY. This Act applies to decisions published by the supreme court on or after the effective date of this act.

FAQ's
Questions and Answers

Why are existing laws treated differently than new laws?

The difference is for the benefit of the public, so the laws governing them do not flip back and forth from being in effect. A *new* law – for example, the Heartbeat law – could be suspended until the suspension is overturned by the legislature. An *existing* law – for example our former marriage laws requiring spouses to be of the opposite sex – could not be suspended for one year, to give the legislature time to respond. No chaotic back and forth.

Could courts suspend a new law between its effective date and the court ruling?

The legal action a court takes to invalidate a law is an Injunction. The process here doesn't specify it, but would allow the normal process of allowing the courts to immediately suspend a new law with a TRO, Temporary Restraining Order, until their hearing, at which the temporary order could become permanent. In the case of an existing law, by contrast, allowing the court to immediately suspend the law, with the possibility of it going back into effect after the legislature acts, would subject the public to a law which is in effect, then

suspended, then back into effect.

If this law removed the court's power to put a TRO on a new law, the law would take effect until the ruling, then it would be suspended, but then the legislature might give it effect again.

What will be the effect of a 4-3 ruling that a law is unconstitutional?

(Summary: no legal effect, but much political pressure) Although a 4-3 ruling would no longer have legal force, it would still have powerful political force. A ruling that a law is unconstitutional would be a public relations challenge for the legislature. The legislature would face pressure to refute the judges' claims point by point, or adjust the law voluntarily. A 4-3 ruling would not be powerless; and of course it would still be binding on the parties to the case. But an argument in defense of the legislature ignoring the challenge would be that after all, the justices themselves barely agree the law is unconstitutional.

Would a ruling always trigger a public hearing?

That decision is made independently of a decision to vote to override the court. "Within one year, the legislature MAY, by a resolution, compel the attendance of specified Iowa judges ...."

Is one year for the legislature to act too long? Too short?

One year from the court's ruling is needed to process the ruling's reasoning, to hold hearings which would require passage of a resolution by both chambers, and then to schedule a vote, which could be while the legislature is not in session. A year is needed.

On the other hand, requiring courts to act in 3 months is reasonable, considering this is not a brand new question before them that they have never heard of before. They have had all the years of public debate on the issue to think about the issue. Plus, courts are accustomed to ruling quickly when cases are required to be "expedited".

Would prolife laws do any better under this system?

(Summary: Good news for Democrats!) No, at least not by much. Prolife laws would have a brighter future in Iowa courts, but in federal courts there would be no difference from a state law. That is,

until such time as Congress adopts these reforms.

However, it might give prolife bills as much help as a "no right to abortion" state constitutional amendment would, although a different kind of help. And although there seems little concern that a Constitutional Amendment might be overturned, (even though constitutional amendments have been overturned in other states by their courts), this act would further reduce that possibility.

Is a 2/3 majority requirement necessary? Shouldn't a simple majority of the legislature be enough to override courts?

(Summary: practically & legally, certainly; politically, complicated) This may be the hardest detail to muster a quick opinion. There are strong arguments for either choice; perhaps there is even a third option: a 60% vote. As this bill proceeds, perhaps it should be expected that a consensus will form later requiring amendment of this detail. The current draft requires a 2/3 majority.

The Practical Argument: Currently, courts get away with a simple majority requirement (4-3) which faces zero accountability from anybody. This draft requires a 5-2 vote; another option is 6-1. Should the legislature face a similar hurdle? Several lawmakers believe a 2/3 requirement removes any practical hope of ever overturning a judicial invalidation of a law, because the Iowa legislature is incapable of agreeing by 2/3 that the sun is up. A 2/3 requirement would make restraint of lawmaking judges actually harder than passing a constitutional amendment!

In Congress, our U.S. Constitution says a 2/3 majority is enough to send an amendment to the Constitution before the states for their ratification.

But if we let the legislature overturn the court's invalidation with a second simple majority, it could be objected that would be almost ridiculously easy for the legislature to gather together the same "yea" votes a second time (if an election doesn't intervene). A 60% requirement could answer that concern.

However, that objection could also be met by pointing out that the ruling of the courts would give typically 60 pages of reasons the law should be overturned, which would put a lot of pressure on those "yea" votes to either eloquently and exhaustively justify their votes or vote "nay". It would not be easy to secure a majority a second time under that pressure.

The public hearing option would put that 60 page ruling on a level playing field with reasoning from lawmakers. It would make both legislatures and courts accountable not only to each other, but to reason. It might even make lawmakers upset enough to reach a 2/3 agreement.

Voters, informed as has never before been possible about judges on the ballot, or about the legal skills of lawmakers, would have the last word.

The Political Argument: The public is not used to legislatures having ANY power to correct unconstitutional rulings. A 2/3 requirement would be less of a shock to tradition. Were this bill to pass into law with a 2/3 requirement, and lawmakers saw how unnecessary it was, lawmakers could ease the requirement in the future - since this does not require amending the constitution, which already grants more than this power, but requires only a law.

Amendment. Should it be decided that a simple majority of the legislature to overturn a court's invalidation is sufficient, here is the simple change that could do it - simply strike out "two-thirds of" (or replace it with "six tenths of"):

A supreme court decision invalidating existing law or
having the effect of creating new law will not take effect if
~~two-thirds of~~ both the senate and the house of representatives
approve a resolution to overturn the decision within one year
of the date the decision was published.

Is it practically possible to require courts to add a statement from the legislature up to a year after its ruling?

When the Supreme Court first publishes its ruling, that is not the final version that will be later given an official permanent citation in the Northwest Reporter series. (Their contact information) Unpredictable delays are caused by litigants asking for rehearings, and courts taking time to respond. Even after that option is exhausted, court staff continue proofing their decisions, a process that can take months. [Iowa Supreme Court Clerk phone number: 515-348-4700] Northwest Reporter doesn't officially publish a case, and give it a permanent citation, until a state supreme court notifies them that it is ready. That is why a new case has only an Iowa citation that does not list a page number or volume number, and doesn't get a fancy N.W.2d permanent citation until much later.

Requiring the Court to leave the publication open for a year in case the legislature chooses to submit a statement would affect only the time the Court notifies Northwest Reporter, and it may not even affect that time at all.

The farther this bill gets, the more discussions there will be about it with the Iowa Bar Association and the Court itself. If delaying final publication that long is deemed unreasonable, an amendment could easily give the legislature an earlier deadline. It might also require the legislature to notify the court of an intent to exercise that option.

Of course, this entire final sentence of this bill is not critical to legislative correction of judicial overreach. It could be conceded if necessary to save the rest of the bill. But it is an appropriate correction of the current system.

Will an expedited hearing that begins in the Supreme Court diminish the time needed by the litigants to fully present their claims?

(Summary: anyone ready to block a law from taking effect is ready for court) A challenge to a new law means (and perhaps this bill could so specify, although I think it is already clearly implied) a challenge to a law that has not yet gone into effect, to keep it from going into effect (beginning with a Temporary Restraining Order (TRO) the day it would go into effect).

In such a case the state itself will normally be the defendant, and the petitioner will be a well funded group that tried to kill the law in the legislature but failed. In that situation the petitioner will already be prepared legally, their arguments well honed through interaction with lawmakers. It is hard to imagine that any less prepared petitioner would be ready with a TRO to stop a law before it goes into effect.

Iowa court rules already require appellants to outline their issues in their initial notice of appeal, which is more pressure on individual defendants to prepare that far ahead, in proportion to their means, than challengers to a new law will face, who will be fully primed for a court battle before the law passes the first chamber.

Were the petitioner an individual seeking relief only for himself and not for anyone else affected by the law, courts have many tools for giving relief to individuals short of invalidating whole laws. Extenuating circumstances, interaction with other laws affecting the

individual, necessity in order to avoid serious injury (Iowa 704) for example. The applicability of laws to individuals is the jurisdiction of the judicial branch, with which the legislative branch has no intent to interfere, any more than the judicial branch should interfere with the jurisdiction of the legislative branch to establish laws of general application.

After a law has already gone into effect, then there is no requirement to expedite. In fact, the decision to challenge a law could be made by the parties to the case, or by a judge, at any point during a years-long case: in pre-trial briefs, a district judge's ruling, or during the appeal before the Court of Appeals or the Supreme Court. With this bill the applicability of the law to the individual defendant could still be suspended, but the law itself, as applied to everyone else, would not be suspended until after the Supreme Court so rules and then only if the legislature does not block the suspension. The legislature's year to respond would not begin with any ruling made before the Supreme Court's supermajority ruling.

Are there any U.S. Supreme Court precedents relevant to these half dozen powers?

(Summary: making judges answer lawmakers' questions is a staple of confirmation hearings) These proposed powers are all completely unprecedented in law, although some of them have been discussed. Probably the one never before discussed is the idea of a public hearing.

Surely the prohibition of a district judge overturning a law, limiting that power to the state Supreme Court, and requiring a supermajority of the court to overturn, is well within the power given the legislature to limit the jurisdiction of courts.

Public Hearings

How about public hearings? Is there any legal or constitutional principle that shields judges from having to explain their rulings any better than they do in their written opinions? Is there something nefarious about requiring judges to answer questions?

Federal judges answer questions about their past rulings in confirmation hearings for appointments to higher courts. If U.S. Senators can require them to answer questions about their rulings years later, why can't state legislatures require their state judges to answer questions at the time? Judges justify not answering questions about

future potential cases, that they may remain free to rule in view of facts and arguments they might not see until then, but there is no reason to shield judges from explaining their past cases.

Especially since the Public Hearings envisioned in this bill are not only to clarify whether a law ruled unconstitutional actually is unconstitutional. The second purpose of these Public Hearings is to investigate whether there are grounds for impeachment. Because if the legislature determines that the court's ruling of the law's unconstitutionality is utterly lacking in merit, then judges who so ruled were legislating; they were acting without authority, exercising a power of a different branch of government than their own, which is malfeasance of office, an impeachable offense.

Obviously, in any impeachment trial, the judges would be required to answer questions. These public hearings are a power subsumed under the power of impeachment; they are a reasonable, less severe remedy.

Certainly the very idea of communication between lawmakers and judges on a "level playing field" is unheard of. Unprecedented. (Outside confirmation hearings.) Current communication, which tradition will be slow to reconsider, is somewhat like a parent trying to reason with a child who is as inarticulate as he is stubborn.

It is a special challenge for a lawyer representing the legislature to reason with a judge who gives only the scantest clues to what is on his mind before he rules, after which it is too late to respond to his errors. Does any Constitutional or legal principle require such a breakdown of communication? Does this ritual serve any good purpose?

Once President Washington asked SCOTUS for its advisory interpretation of a treaty. The justices declined, saying "The lines of separation drawn by the Constitution between the three departments of government – their being in certain respects checks upon each other – and our being judges in a court of last resort – are considerations which afford strong arguments against the propriety of our extra judicially deciding the questions alluded to; especially as the Power given by the Constitution to the President of calling on the Heads of Departments for opinions, seems to have been purposely as well as expressly limited to *executive* departments." https://www.mountvernon.org/library/digitalhistory/digital-encyclopedia/article/george-washington-and-the-supreme-court/

https://founders.archives.gov/?q=Thomas%20Recipient%3A%22Washington%2C%20George%22%20Author%3A%22Supreme%20Court%20Justices%22&s=1111311111&sa=supre&r=3&sr=

That answer is not a precedent for keeping courts from communicatint with legislatures for two reasons: (1) it was not a sensible answer then. The Constitution puts no limit on who the President can consult for advice, while Proverbs 15:22 says “in a multitude of counsellors, purposes are established”. I can’t imagine where SCOTUS came up with the idea that the President was limited to asking his department heads. Washington asked for advice, not a binding ruling. That’s what “extrajudicial” means. (2) SCOTUS then declined to get involved in an issue which it otherwise would never face. This is different than asking a Court to make up its mind earlier than later.

It is not wrong to ask judges to give advisory opinions to lawmakers so lawmakers don’t have to spend years crafting laws which judges at the last minute decide to overturn. The August 8, 1793 answer was before Americans had to worry about activist judges who leave the future of legislation, and indeed the very future of human rights, very much in doubt.

However, asking judges to give an advisory opinion about a law before it is passed is probably impractical, since judges are used to taking longer to study an issue than a legislature is in session, and also since even after giving an early opinion, new evidence or argument might come later which would flip the Court’s ruling.

An expedited three month deadline is probably the closest we can come to a timely response from courts. Certainly legal wrangling that dribbles on for years exhausts the patience of rational minds.

The subject of the public hearing is whether the law really was unconstitutional. Because if it wasn't, then the judges plainly acted outside their authority, which is grounds for impeachment. But beyond being grounds for impeachment, an order given that is beyond one's authority to give is legally invalid. So surely the legislature has the authority to investigate whether an order was invalid, and upon establishing that it is, to reverse its effects.

Sheltering judges from interaction doesn’t make them free of bias. In every other human interaction, accountability is the best way to cleanse a hard heart of bias.

The Two-Thirds Majority

The only thing remotely relevant to this 2/3 vs. simple majority requirement in American constitutional law that I can think of is that to ratify a constitutional amendment, Congress has to pass it by 2/3 before states pass it by 3/4. But the solution here doesn’t change the constitution; it only defines how the legislature is choosing to exercise authority already given by the Iowa Constitution.

If anything, there is a constitutional principle favoring the power of legislatures over courts, with respect to Fundamental Rights. The 14th Amendment is the part of the Constitution which courts have taken to give them jurisdiction over states who trample fundamental rights. But who did the 14th Amendment authorize to enforce its provisions? Not courts! Rather, Congress, according to Section 5 of the Amendment.

Yet here are examples of not just state laws, but even state constitutional amendments, which were overturned by courts for violating the “equal protection” clause of the 14th Amendment:

Cummings v. Missouri, 71 U.S. 277 (1867) a Missouri oath to hold office designed to keep out former confederate soldiers was ruled an unconstitutional Bill of Attainder.

Hollingsworth v. Perry, 570 U.S. 693 (2013) a California same sex marriage ban.

Romer v. Evans, 517 U.S. 620 (1996) a Colorado gay rights ban.

Awad v. Ziriax, 10th Circuit, January 10, 2012 an Oklahoma ban of the use of Sharia Law in court.

Giles v. Harris, 1903, and Giles v. Teasley, 1904, courts winked at disenfranchising Blacks, but explicitly accepted jurisdiction over state constitutions violating the 14th and 15th Amendments.

The authority to enforce the requirements of the 14th Amendment, given to Congress and not courts, gives Congress also the authority to define and apply fundamental rights, and for anyone seriously in doubt, to clarify who is a human being and therefore deserves to have his fundamental rights protected.

These are philosophical as well as legal questions which merit national discussion, but while courts are sheltered from having to talk to anybody the conversation has been one sided. America needs to open this up into what Proverbs 15:22 calls a "multitude of counsellors". It does not undermine respect for the judiciary to imagine judges are able to explain their reasoning.

If Legislatures overturn court rulings, won't they exercise the authority of the judicial branch?

(Summary: legislative action wouldn't affect litigants; only the part of the ruling that reaches wrongfully into legislating) No. On that future day when a legislature overturns judicial rulings, the legislature's action would not apply to the parties to the case, so the "separation of powers" aspect of the ruling is untouched.

There are several reasons a court may exempt a litigant from the effects of a law, without invalidating the law for everyone else. The simple difference between courts and legislatures is that legislatures pass laws which apply to everybody, while courts apply those laws in specific cases, only to the parties to the case, guided by the special facts and circumstances of the case. The power given by this bill to legislatures to overturn rulings applies only to the part of the ruling where the court stepped outside its constitutional authority in order to nullify a law passed for the benefit of millions of others.

The purpose of the public hearing is only for the legislature to investigate whether their law was constitutional after all, and if so, to take back their constitutional authority to pass laws by their subsequent vote.

Lawmakers take oaths to defend the Constitution too. Courts cannot rob lawmakers of their power to obey the Constitution without violating the constitution themselves.

Perhaps that is the key principle declared implicitly by this bill: judges aren't the only branch of government authorized to understand and defend the Constitution. The other branches are too. That balance needs to be restored. The conversation needed needs to be among equals.

Shouldn't judges be immune from popular pressure? We don't want our rights subject to a vote!

Neither legislatures nor courts should have the last word over each other. We have seen what happens when legislatures had the last word, in the South, during the time of slavery. And we have seen what happens when courts had the last word, in 1857 and 1973; regarding slavery and abortion.

Even the Iowa constitution gives the last word to voters. Is that dangerous? America's Founders talked about popular whims that could remove important protections over the weekend if the public could vote on individual issues continually. They set up 6 year terms for U.S. Senators and 4 year terms for presidents explicitly to shield our Rule of Law from whims the public might hold for only a month. Nor does this process give voters direct control over the outcome of a disputed law, but only equips them to evaluate the wisdom of their elected representatives and their judges, which is the same as our current system except this leaves voters *much* better informed.

The 14th Amendment expanded the power of courts to overturn laws which violate "fundamental rights". It made slave-loving southern state legislatures accountable to courts. Unaddressed was what to do when it is courts which violate fundamental rights. This measure is an attempt to restore balance. It is interesting that the 14th Amendment actually leaves its own enforcement not to courts, but to Congress.

The "independence of the judiciary" from popular whims is well protected by lifetime tenure. This measure does not change that. It only defines a remedy for Iowans when judges rule lawlessly and

unconstitutionally.

Didn't Iowa decide recently not to impeach judges for their rulings?

Summary: "Overreaching" can only reach so far before it turns into full fledged unconstitutional legislating.

Removal from office, for just one harmful ruling which may be out of a long career of beneficial rulings, is pretty drastic; not to mention ineffective since it leaves the ruling in place that triggered the impeachment!

That is why remedies short of impeachment are necessary, as well as remedies able to focus on the problem without cutting off talent which is mostly beneficial.

If an assembly line produces an occasional klunker amongst its generally great output, we keep the assembly line and discard the klunker; we don't keep the klunker and blow up the assembly line!

Iowans seriously considered impeaching judges for their rulings not so long ago. Highlights are discussed at the Brennan Center:

> A 2011 review by the National Center for State Courts' *Gavel to Gavel* website also found numerous bills introduced in state legislatures that year to impeach judges and justices because of disagreement over specific rulings. Several of those introductions were part of a failed effort in Iowa to remove four Iowa Supreme Court Justices for their decision in a high-profile case about marriage rights for same-sex couples.
>
> The impeachment attempt garnered significant media attention, but also widespread condemnation – even from members of the sponsors' own party. Iowa Governor-elect Terry Brandstad (R) [sic] said at the time that disagreement over a ruling did not constitute grounds for impeachment. "**There's a difference between malfeasance and over-reaching," said Brandstad,** "the Constitution says what the grounds for impeachment are. My reading is it's not there." Iowa House Speaker Kraig Paulsen (R), whose chamber would have voted on the impeachment, sent the resolutions to languish in an inactive committee and said, "I disagree with this remedy,…I do not expect it to be debated on the floor of the House, and if it is, I will vote no."

I respectfully disagree with Governor, later Ambassador Branstad. When the Iowa Supreme Court not only struck down laws limiting marriage to opposite sex couples, but specifically ordered county clerks to solemnize "marriages" between same sex couples, that reaches beyond "overreaching". "Overreaching" implies a mild going-a-little-too-far out of one's proper jurisdiction.

But if the *plainest* example of a "person charged with the exercise of powers properly belonging to" the judicial branch of government exercising "any function appertaining to" the legislative branch can be dismissed as mere "overreaching", then it is impossible for any other judicial legislating to violate the Iowa Constitution. We might as well just give judges the password to the Iowa Code database and let them write whatever laws they please. As Rep. Matt Windschitl said January 27, 2020 on the Jeff Angelo show, "Do we really want judges deciding laws? If so, why do we even have a legislature?"

Article 3 Section 1 of the Iowa Constitution says "Departments of government. The powers of the government of Iowa shall be divided into three separate departments — the legislative, the executive, and the judicial: and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any function appertaining to either of the others...."

FAQ's: Judicial Philosophy

Isn't it unconstitutional to impeach a judge for a ruling?

Summary: It can't be unconstitutional to correct the part of a ruling that unconstitutionally legislates. Although it has not been established definitively, whether a judge may be impeached over a ruling, most legal discussion avers that would be unethical, and there is no precedent of a successful impeachment over the content of a ruling.

Most legal discussion is of the *U.S.* Constitution; the *Iowa* Constitution specifies that judges can't legislate, which is only implied in the U.S. Constitution.

The United States Constitution provides little guidance as to what offenses constitute grounds for the impeachment of federal judges...However, the impeachment power has historically been limited to cases of serious ethical or criminal misconduct. - Brennan Center

It is generally supposed that legislative action to correct an unconstitutional ruling, or to discipline a judge who writes one, would be unconstitutional.

The Constitution does not "provide for resignation or impeachment whenever a judge makes a decision with which elected officials disagree" said four judges when President Clinton and Senator Dole urged impeachment of a judge over his ruling on admissibility of evidence. "These attacks do a grave disservice to the principle of an independent judiciary and…mislead the public as to the role of judges in a constitutional democracy." Brennan Center

Let's make a distinction glossed over by those four judges: between a ruling hated because it applies existing law and facts in a way most people think is wrong, and a ruling hated because it overturns laws by a rationale that most people think is unconstitutional. I agree with the four judges that the case was correctly kept off limits to lawmakers, but the judges generalized their criticism to the extent of dismissing concerns about truly unconstitutional rulings as being mere decisions "with which elected officials disagree".

It is that degree of generalization that is "a grave disservice" by elevating "the principle of an independent judiciary" beyond the reach of the Constitution, of common sense, and of accountability of any kind from any source.

What I have not found in law review articles is any proposed remedy for when a ruling itself is unconstitutional. I have not found it even acknowledged that it is possible for a ruling to be unconstitutional. As if to say "how could judges rule unconstitutionally? Judges ARE the constitution."

But it is judges themselves, in vigorous dissents, who stir public concern about the constitutionally of certain rulings. Judges who write dissents are as qualified as those in the majority, and their reasoning is often equally persuasive. When the public has a basis this solid for concern about the constitutionality of rulings, it is surely in the public interest, and not contrary to any known legal or constitutional principle, to hold a public hearing where those concerns can be addressed and hopefully resolved, where judges, perhaps for the first time in America history, can be compelled to interact with experts other than each other.

In fact, any time a law is overturned for being unconstitutional, but the ruling is flawed and a correct ruling would actually not find the law unconstitutional, then actually the ruling itself is unconstitutional because the ruling amounts to raw legislation. It is unconstitutional for

courts to pass laws.

Let me emphasize this point. Any ruling that overturns a law is either correct because the law is in fact unconstitutional, or is itself unconstitutional because its reasoning or factual basis is flawed. Lawmakers take oaths to defend the Constitution too, and should not be unconstitutionally deprived of the power to enforce it when they see a violation.

If we may agree that it is at least theoretically possible for a ruling overturning a law to be unconstitutional, shall we insist the Constitution requires the legislature to honor every unconstitutional ruling?

Suppose there were a law against painting your house red, someone was prosecuted for painting his house red, and the court refused to convict because it is surely unconstitutional to outlaw painting your house red. Even without a formal nullification of the law, the law would be defacto nullified because prosecutors would know the court won't convict anybody for that crime. It may be reasoned that rulings overturning laws merely formalize this natural process.

Public hearings would bring healing to our national division over issues less clear than the right to paint your house red.

As is pointed out below, the power this bill gives the legislature to overturn a judicial validation of its laws would not usurp judicial powers. It would not affect individuals who are actual parties named in the case. It would only affect that part of the ruling which wrongfully reaches into lawmaking, changing the laws which affect millions of other people who are not named in the case.

Even if the Iowa Constitution doesn't give Iowa courts power to invalidate laws, doesn't the 14th Amendment empower courts to overturn laws which violate fundamental rights?

(Summary: the Amendment authorizes legislatures, not courts, to define and enforce fundamental rights.) The 14th Amendment expanded the power of courts to overturn state laws which violate "fundamental rights". It made slave-loving southern state legislatures accountable to courts.

But did the Amendment's framers fail to address what to do when it is *courts* which violate fundamental rights? Had the framers in 1868 forgotten so soon what the Supreme Court did in 1857 which tipped the country towards Civil War? (The *Dred Scott v. Sandford* decision which classified black human beings as "property".) Did the framers leave no remedy for us today, still suffering under the 1973 decision responsible for 60 million murders which was not corrected by *Dobbs v. Jackson* which still dodged the fact that babies are people, which makes killing them legally recognizable as murder which "voters" don't get to legalize?

Actually the Amendment offers us that solution too. The solution is buried in Section 5 which most people don't think about. "The Congress shall have power to enforce, by appropriate legislation, the provisions of this article." Notice that courts are not given authority to enforce the Fundamental Rights protected by the 14th Amendment, but rather, Congress.

How opposite that is to the powers which the Supreme Court has assumed, to even overturn the laws of Congress which the Court imagines violate fundamental rights! The 14th Amendment gives jurisdiction over state legislatures, not the U.S. Congress. The 14th Amendment gives that jurisdiction to

Congress, not courts. Courts are made subject to Congress by the Amendment, and yet the Supreme Court has assumed Congress is made subject to courts! And not to the Supreme Court only but to any sympathetic district judge some New Rights advocate can locate.

But what is the practical meaning of authorizing Congress, not courts, to enforce fundamental rights? Obviously Congress can't enforce anything without courts. All legislatures can do is pass laws with penalties that apply to designated actions, but only courts can charge particular individuals, businesses, corporations, or states with violating those laws; only courts can apply penalties to people.

In fact the Constitution explicitly prohibits Congress from passing judgment on specific individuals or groups. “Bills of Attainder”, is what the U.S. Constitution calls such actions.

So if legal practicality requires both Congress and courts, working together in their respective roles, to enforce the “equal protection of the laws” vision of the 14th Amendment, what is the significance of the fact that only Congress, and not courts, are authorized to enforce the Amendment?

The areas of dispute between courts and legislatures are (1) what rights are true protectable rights? (2) how should rights be balanced when certain rights of some infringe on certain other rights of others? and, to the shame of our nation that this can be in dispute among otherwise civilized people, (3) who is fully human and thus the recipient of any rights at all?

The power to enforce rights subsumes the power to define the scope of rights. Section 5 gives Congress, alone, that power. Congress is also authorized by the original Constitution to pass laws defining offenses and requiring courts to apply and process them, so actually it is Congress alone which is authorized by the 14th Amendment to rule on whether an unborn baby is a fully human being, whether men have a constitutional right to marry each other, whether boys have a constitutional right to pretend they are girls and compete with girls in athletic events, etc. etc.

Was this a wise solution the Amendment's framers gave us? Have we been wiser to disregard it? If Congress is given the last word on our rights, will that be less hazardous to human rights than nine unelected judges deciding for us?

Congress is the branch of government most accountable to the people and consisting of a “Multitude of Counsellors” Proverbs 15:22. When fundamental human rights are threatened, the people in danger of losing them should not be denied a voice in their disposition.

Of course the solution I offer doesn’t merely shift absolute power from courts to legislatures. It replaces an unaccountable court simple majority with a court supermajority subject to a legislative supermajority subject to a public hearing subject to voters.

So you are sitting there reading this and screaming, “but this measure is a STATE law about STATE courts. What does Section 5 of the 14th Amendment have to do with STATE laws and courts?”

So glad you asked.

The very concept of courts overturning laws was not developed in state courts, but was borrowed from federal precedents. Therefore the restrictions on that federal court power should guide and bind state courts.

When a District Judge Blocks a Law All Across America

How can a state limit the power of district judges to slap a law with an injunction, when federal district judges routinely slap nationwide laws with injunctions

that apply all over America, far outside their own jurisdiction which is limited to just part of just one state?

The proposed law here, SSB3181, would not let lower court judges overturn laws. Indeed, what is proposed here challenges sixty years of precedent.

But even Justice Gorsuch called universal injunctions by lower court judges "rushed, high-stakes, low-information decisions."

In that ruling, Gorsuch wrote, "a single judge in New York enjoined the government from applying the new definition to anyone, without regard to geography or participation in this or any other lawsuit."

Justice Gorsuch wrote in his recent concurrence in the *DHS v. New York* case, that "[b]ecause plaintiffs generally are not bound by adverse decisions in cases to which they were not a party, there is a nearly boundless opportunity to shop for a friendly forum to secure a win nationwide." "It has become increasingly apparent," in the words of Justice Gorsuch, that the Supreme Court "must, at some point, confront these important objections to this increasingly widespread practice."

Heritage Foundation explains why that troubles the Supreme Court, with reasons which apply also to Iowa courts: "Oftentimes, judges issue universal injunctions at the beginning of a case, even before resolving legal and factual issues. When that happens, the Justice Department often appeals on an emergency basis. That's not good, because it doesn't give the higher courts, including the Supreme Court, the time they need to make sure they get the answer right. The Supreme Court, in particular, prefers to weigh in on a legal issue only after many lower courts, lawyers, and legal scholars have had time to discuss it. That debate sharpens the arguments and refines the issues. Emergency appeals, however, eliminate that." Time to End the Tyranny of District Court Judges' Nationwide Injunctions, https://www.dailysignal.com/2020/02/18/time-to-end-the-tyranny-of-district-court-judges-nationwide-injunctions/?

Heritage noted, "These universal injunctions are controversial.

U.S. Attorney General William Barr denounced them in a speech last May. Deputy Attorney General Jeffrey Rosen did so in a speech on Feb. 12, and Justices Clarence Thomas and Neil Gorsuch have criticized them as well. ”

https://supreme.justia.com/cases/federal/us/585/17-965/#tab-opinion-3920352

Opinions

- Opinion (Roberts)
- Concurrence (Thomas)
- Concurrence (Kennedy)
- Dissent (Breyer)
- Dissent (Sotomayor)

Hear Opinion Announcement - June

26, 2018 -*Urquidez*, 494 U. S. 259, 265 (1990). And, even on its own terms, the plaintiffs' proffered evidence of anti-Muslim discrimination is unpersuasive.

Merits aside, I write separately to address the remedy that the plaintiffs sought and obtained in this case. The District Court imposed an injunction that barred the Government from enforcing the President's Proclamation against anyone, not just the plaintiffs. Injunctions that prohibit the Executive Branch from applying a law or policy against anyone—often called "universal" or "nationwide" injunctions—have become increasingly common.[1] District courts, including the one here, have begun imposing universal injunctions without considering their authority to grant such sweeping relief. These injunctions are beginning to take a toll on the federal court system—preventing legal questions from percolating through the federal courts, encouraging forum shopping, and making every case a national emergency for the courts and for the Executive Branch.

I am skeptical that district courts have the authority to enter universal injunctions. These injunctions did not emerge until a century and a half

after the founding. And they appear to be inconsistent with longstanding limits on equitable relief and the power of Article III courts. If their popularity continues, this Court must address their legality.

I

If district courts have any authority to issue universal injunctions, that authority must come from a statute or the Constitution. See *Missouri* v. *Jenkins*, 515 U. S. 70

124 (1995) (Thomas, J., concurring). No statute expressly grants district courts the power to issue universal injunctions.[2] So the only possible bases for these injunctions are a generic statute that authorizes equitable relief or the courts' inherent constitutional authority. Neither of those sources would permit a form of injunctive relief that is "[in]consistent with our history and traditions." *Ibid*.

A

This Court has never treated general statutory grants of equitable authority as giving federal courts a freewheeling power to fashion new forms of equitable remedies. Rather, it has read such statutes as constrained by "the body of law which had been transplanted to this country from the English Court of Chancery" in 1789. *Guaranty Trust Co.* v. *York*, 326 U. S. 99, 105 (1945). As Justice Story explained, this Court's "settled doctrine" under such statutes is that "the remedies in equity are to be administered . . . according to the practice of courts of equity in [England]." *Boyle* v. *Zacharie & Turner*, 6 Pet. 648, 658 (1832). More recently, this Court reiterated that broad statutory grants of equitable authority give federal courts " 'an authority to administer in equity suits the principles of the system of judicial remedies which had been devised and was being administered by the English Court of Chancery at the time of the separation of the two countries.' " *Grupo Mexicano de Desarrollo S. A.* v. *Alliance Bond Fund, Inc.*, 527 U. S. 308, 318 (1999) (Scalia, J.) (quoting *Atlas Life Ins. Co.* v. *W. I. Southern, Inc.*, 306 U. S. 563, 568 (1939)).

B

The same is true of the courts' inherent constitutional authority to grant equitable relief, assuming any such authority exists. See *Jenkins*, 515 U. S., at 124 (Thomas, J., concurring). This authority is also limited by the traditional rules of equity that existed at the founding.

The scope of the federal courts' equitable authority under the Constitution was a point of contention at the founding, and the "more limited construction" of that power prevailed. *Id.,* at 126. The founding generation viewed equity "with suspicion." *Id.*, at 128. Several anti-Federalists criticized the Constitution's extension of the federal judicial power to "Case[s] in . . . Equity," Art. III, §2, as "giv[ing] the judge a discretionary power." Letters from The Federal Farmer No. XV (Jan. 18, 1788), in 2 The Complete Anti-Federalist 315, 322 (H. Storing ed. 1981). That discretionary power, the anti-Federalists alleged, would allow courts to "explain the constitution according to the reasoning spirit of it, without being confined to the words or letter." Essays of Brutus No. XI (Jan. 31, 1788), in *id.,* at 417, 419–420. The Federalists responded to this concern by emphasizing the limited nature of equity. Hamilton explained that the judiciary would be "bound down by strict rules and precedents which serve to define and point out their duty in every particular case that comes before them." The Federalist No. 78, p. 471 (C. Rossiter ed. 1961) (Federalist). Although the purpose of a court of equity was "to give relief in extraordinary cases, which are exceptions to general rules," "the principles by which that relief is governed are now reduced to a regular system." *Id.* No. 83 at 505 (emphasis deleted).

The Federalists' explanation was consistent with how equity worked in 18th-century England. English courts of equity applied established rules not only when they decided the merits, but also when they fashioned remedies. Like other aspects of equity, "the system of relief administered by a court of equity" had been reduced "into a regular science." 3 W. Blackstone, Commentaries on the Laws of England 440–441 (1768) (Blackstone). As early as 1768, Blackstone could state that the "remedy a suitor is entitled to expect" could be determined "as readily and with as much precision, in a court of equity as in a court of law." *Id.,* at 441. Although courts of equity exercised remedial "discretion," that discretion allowed them to deny or tailor a remedy despite a demonstrated violation of a right, not to expand a remedy beyond its traditional scope. See G. Keeton, An Introduction to Equity 117–118 (1938).

In short, whether the authority comes from a statute or the Constitution, district courts' authority to provide equitable relief is meaningfully constrained. This author- ity must comply with longstanding principles of equity that predate this country's founding.

II

Universal injunctions do not seem to comply with those principles. These injunctions are a recent development, emerging for the first time in the 1960s and dramatically increasing in popularity only very recently. And they appear to conflict with several traditional rules of equity, as well as the original understanding of the judicial role.

Equity originated in England as a means for the Crown to dispense justice by exercising its sovereign authority. See Adams, The Origins of English Equity, 16 Colum. L. Rev. 87, 91 (1916). Petitions for equitable relief were referred to the Chancellor, who oversaw cases in equity. See 1 S. Symon's, Pomeroy's, Equity Jurisprudence §33 (5th ed. 1941) (Pomeroy); G. McDowell, Equity and the Constitution 24 (1982). The Chancellor's equitable jurisdiction was based on the "reserve of justice in the king." F. Maitland, Equity 3 (2d ed. 1936); see also 1 Pomeroy §33, at 38 (describing the Chancellor's equitable authority as an "extraordinary jurisdiction—that of *Grace*—by delegation" from the King). Equity allowed the sovereign to afford discretionary relief to parties where relief would not have been available under the "rigors of the common law." *Jenkins*, *supra*, at 127 (opinion of Thomas, J.).

The English system of equity did not contemplate universal injunctions. As an agent of the King, the Chancellor had no authority to enjoin him. See Bray, Multiple Chancellors: Reforming the National Injunction, 131 Harv. L. Rev. 417, 425 (2017) (Bray). The Chancellor could not give "any relief against the king, or direct any act to be done by him, or make any decree disposing of or affecting his property; not even in cases where he is a royal trustee." 3 Blackstone 428. The Attorney General could be sued in Chancery, but not in cases that " 'immediately concerned' " the interests of the Crown. Bray 425 (citing 1 E. Daniell, The Practice of the High Court of Chancery 138 (2d ed. 1845)). American courts inherited this tradition. See J. Story, Commentaries on Equity Pleadings §69 (1838) (Story).

Moreover, as a general rule, American courts of equity did not provide relief beyond the parties to the case. If their injunctions advantaged nonparties, that benefit was merely incidental. Injunctions barring public nuisances were an example. While these injunctions benefited third parties, that benefit was merely a consequence of providing relief to the plaintiff. Woolhandler & Nelson, Does History Defeat Standing Doctrine? 102 Mich. L. Rev. 689, 702 (2004) (Woolhandler & Nelson);

see *Pennsylvania* v. *Wheeling & Belmont Bridge Co.*, 13 How. 518, 564 (1852) (explaining that a private "injury makes [a public nuisance] a private nuisance to the injured party").

True, one of the recognized bases for an exercise of equitable power was the avoidance of "multiplicity of suits." Bray 426; accord, 1 Pomeroy §243. Courts would employ "bills of peace" to consider and resolve a number of suits in a single proceeding. *Id*., §246. And some authorities stated that these suits could be filed by one plaintiff on behalf of a number of others. *Id*., §251. But the "general rule" was that "all persons materially interested . . . in the subject-matter of a suit, are to be made *parties* to it . . . , however numerous they may be, so that there may be a complete decree, which shall bind them all." Story §72, at 61 (emphasis added). And, in all events, these "proto-class action[s]" were limited to a small group of similarly situated plaintiffs having some right in common. Bray 426–427; see also Story §120, at 100 (explaining that such suits were "always" based on "a common interest or a common right").

American courts' tradition of providing equitable relief only to parties was consistent with their view of the nature of judicial power. For most of our history, courts understood judicial power as "fundamentall[y] the power to render judgments in individual cases." *Murphy* v. *National Collegiate Athletic Assn.*, 584 U. S. ___, ___–___ (2018) (Thomas, J., concurring) (slip op., at 2–3). They did not believe that courts could make federal policy, and they did not view judicial review in terms of "striking down" laws or regulations. See *id.,* at ___–___ (slip op., at 3–4). Misuses of judicial power, Hamilton reassured the people of New York, could not threaten "the general liberty of the people" because courts, at most, adjudicate the rights of "individual[s]." Federalist No. 78, at 466.

The judiciary's limited role was also reflected in this Court's decisions about who could sue to vindicate certain rights. See *Spokeo, Inc.* v. *Robins*, 578 U. S. ___, ___–___ (2016) (Thomas, J., concurring) (slip op., at 2–4). A plaintiff could not bring a suit vindicating public rights —*i.e.,* rights held by the community at large—without a showing of some specific injury to himself. *Id.,* at ___–___ (slip op., at 3–4). And a plaintiff could not sue to vindicate the private rights of someone else. See Woolhandler & Nelson 715–716. Such claims were considered to be beyond the authority of courts. *Id.,* at 711–717.

This Court has long respected these traditional limits on equity and judicial power. See, *e.g., Scott* v. *Donald*, 165 U. S. 107, 115 (1897) (rejecting an injunction based on the theory that the plaintiff "so represents [a] class" whose rights were infringed by a statute as "too conjectural to furnish a safe basis upon which a court of equity ought to grant an injunction"). Take, for example, this Court's decision in *Massachusetts* v. *Mellon*, 262 U. S. 447 (1923). There, a taxpayer sought to enjoin the enforcement of an appropriation statute. The Court noted that this kind of dispute "is essentially a matter of public and not of individual concern." *Id.,* at 487. A general interest in enjoining implementation of an illegal law, this Court explained, provides "no basis . . . for an appeal to the preventive powers of a court of equity." *Ibid.* Courts can review the constitutionality of an act only when "a justiciable issue" requires it to decide whether to "disregard an unconstitutional enactment." *Id.,* at 488. If the statute is unconstitutional, then courts enjoin "not the execution of the statute, but the acts of the official." *Ibid.* Courts cannot issue an injunction based on a mere allegation "that officials of the executive department of the government are executing and will execute an act of Congress asserted to be unconstitutional." *Ibid.* "To do so would be not to decide a judicial controversy." *Id.,* at 488–489.

By the latter half of the 20th century, however, some jurists began to conceive of the judicial role in terms of resolving general questions of legality, instead of addressing those questions only insofar as they are necessary to resolve individual cases and controversies. See Bray 451. That is when what appears to be "the first [universal] injunction in the United States" emerged. Bray 438. In *Wirtz* v. *Baldor Elec*. *Co*., 337 F. 2d 518 (CADC 1963), the Court of Appeals for the District of Columbia Circuit addressed a lawsuit challenging the Secretary of Labor's determination of the prevailing minimum wage for a particular industry. *Id.*, at 520. The D. C. Circuit concluded that the Secretary's determination was unsupported, but remanded for the District Court to assess whether any of the plaintiffs had standing to challenge it. *Id.,* at 521–535. The D. C. Circuit also addressed the question of remedy, explaining that if a plaintiff had standing to sue then "the District Court should enjoin . . . the Secretary's determination with respect to the *entire industry*." *Id.,* at 535 (emphasis added). To justify this broad relief, the D. C. Circuit explained that executive officers should honor judicial decisions "in all cases of essentially the same character." *Id.,* at

534. And it noted that, once a court has decided an issue, it "would ordinarily give the same relief to any individual who comes to it with an essentially similar cause of action." *Ibid.* The D. C. Circuit added that the case was "clearly a proceeding in which those who have standing are here to vindicate the public interest in having congressional enactments prop- erly interpreted and applied." *Id.,* at 534–535.

Universal injunctions remained rare in the decades following *Wirtz*. See Bray 440–445. But recently, they have exploded in popularity. See *id.,* at 457–459. Some scholars have criticized the trend. See generally *id.,* at 457–465; Morley, Nationwide Injunctions, Rule 23(b)(2), and the Remedial Powers of the Lower Courts, 97 B. U. L. Rev. 615, 633–653 (2017); Morley, De Facto Class Actions? Plaintiff- and Defendant-Oriented Injunctions in Voting Rights, Election Law, and Other Constitutional Cases, 39 Harv. J. L. & Pub. Pol'y 487, 521–538 (2016).

No persuasive defense has yet been offered for the practice. Defenders of these injunctions contend that they ensure that individuals who did not challenge a law are treated the same as plaintiffs who did, and that universal injunctions give the judiciary a powerful tool to check the Executive Branch. See Amdur & Hausman, Nationwide Injunctions and Nationwide Harm, 131 Harv. L. Rev. Forum 49, 51, 54 (2017); Malveaux, Class Actions, Civil Rights, and the National Injunction, 131 Harv. L. Rev. Forum 56, 57, 60–62 (2017). But these arguments do not explain how these injunctions are consistent with the historical limits on equity and judicial power. They at best "boi[l] down to a policy judgment" about how powers ought to be allocated among our three branches of government. *Perez* v. *Mortgage Bankers Assn.*, 575 U. S. ___, ___ (2015) (Thomas, J., concurring in judgment) (slip op., at 23). But the people already made that choice when they ratified the Constitution.

* * *

In sum, universal injunctions are legally and historically dubious. If federal courts continue to issue them, this Court is dutybound to adjudicate their authority to do so.

Notes

1 "Nationwide injunctions" is perhaps the more common term. But I use the term "universal injunctions" in this opinion because it is more precise. These injunctions are distinctive because they prohibit the

Government from enforcing a policy with respect to anyone, including nonparties—not because they have wide geographic breadth. An injunction that was properly limited to the plaintiffs in the case would not be invalid simply because it governed the defendant's conduct nationwide.

2 Even if Congress someday enacted a statute that clearly and expressly authorized universal injunctions, courts would need to consider whether that statute complies with the limits that Article III places on the authority of federal courts. See *infra*, at 7–8.

https://www.justice.gov/opa/speech/deputy-attorney-general-jeffrey-rosen-delivers-opening-remarks-forum-nationwide

Deputy Attorney General Jeffrey A. Rosen Delivers Opening Remarks at Forum on Nationwide Injunctions and Federal Regulatory Programs

What I want to focus on are the practical consequences of these injunctions' inconsistencies and overreaches – both for the government and for the courts – that occur when a court goes beyond what is necessary for complete relief to the actual parties before it. It seems to me that the Supreme Court is going to have to address the problem.

...Our country has crossed a new threshold, where nationwide injunctions have become almost a routine step in a regulation or policy's lifecycle.

...12 nationwide injunctions were issued against the George W. Bush administration in eight years, and 19 nationwide injunctions were issued against the Obama administration, also in eight years....During the current [Trump] administration, federal courts have issued at least 55 nationwide injunctions in just three years.

... As Justice Thomas wrote in his concurrence in that Trump v. Hawaii decision, nationwide injunctions "are beginning to take a toll on the federal court system."...

(A D.C. court denied a nationwide injunction about an immigration rule. But on the same day a California court issued the injunction. Example #2: in 2017, three organizations challenged a presidential memorandum about transgenders in the military. They challenged it in Washington state, Washington D.C., California, and Maryland.) I will leave it to you to assess why the plaintiffs filed in those particular courts. Before long, all four district courts issued

nationwide injunctions. (That forced the Defense Department to seek relief in four courts. Washington state and California were appealed through the 9th Circuit and then finally dissolved by SCOTUS, while the DC Circuit court dissolved the district court injunction. But Maryland judge wouldn't rule for a whole year on the government's motion, so its universal injunction remained even after SCOTUS overruled an almost identical injunction! What was especially insane was that in the middle of that time frame, the Defense Department announced a new policy that would hopefully satisfy everyone's concerns, but the new policy couldn't be implemented for over a year, because of the Maryland district judge.)

(Another example: immigrants can't come if they are likely to become a "public charge". When that law was clarified, district judges in California and Washington state issued injunctions, one of them nationwide. They were dissolved by the 9th Circuit court, but meanwhile two other district judges issued nationwide injunctions in Maryland and New York. The Maryland judge was overruled by the 4th Circuit, but that one district judge in New York dug in, ignoring the reasoning of *two* appellate courts elsewhere! The 2nd Circuit refused to overturn its district judge. The government had to ask SCOTUS for emergency relief. SCOTUS finally "stayed" the injunction. In that ruling, Gorsuch wrote, "a single judge in New York enjoined the government from applying the new definition to anyone, without regard to geography or participation in this or any other lawsuit."

Dueling Injunctions. When Obama tried to expand DACA, Texas and 25 other states got a nationwide injunction from a Texas district court against it. It was upheld by the 5th District, and SCOTUS

was divided in a tie vote.

Consistent with that ruling, in September 2017, the Trump administration announced that it would end the original DACA policy. But then more than ten lawsuits challenged this termination and sought to block the repeal. District courts in New York and California granted nationwide preliminary injunctions against the administration's rescission of DACA, and a D.C. district court vacated the rescission nationwide as well. So we have the peculiar scenario of both the Obama and Trump administration each having been blocked — one from implementing and one from repealing fundamentally similar programs.

In the DACA case, after the Ninth Circuit affirmed the California injunction, the Supreme Court then granted review. Oral argument was heard this past November, and we are waiting to hear from the Supreme Court. But the upshot of all of this to date is that a few lower courts have forced the Trump administration to spend more than two years implementing, nationwide, a discretionary enforcement policy that it had repealed, after different lower courts and the Supreme Court had barred the Obama administration from implementing a materially indistinguishable discretionary enforcement policy it had wanted. Whatever you think about the particular policies at issue, is that how our system is supposed to work?

As these examples illustrate, not only do nationwide injunctions allow a

single district judge to wield a nationwide veto against federal policies, they also — and just as worrisome — create discord among courts. Nearly one-third of the nationwide injunctions issued in the last three years came from courts in California. Conversely, in two-thirds of the states, no nationwide injunctions have been issued at all.

Justice Gorsuch wrote in his recent concurrence in the *DHS v. New York* case, that "[b]ecause plaintiffs generally are not bound by adverse decisions in cases to which they were not a party, there is a nearly boundless opportunity to shop for a friendly forum to secure a win nationwide." "It has become increasingly apparent," in the words of Justice Gorsuch, that the Supreme Court "must, at some point, confront these important objections to this increasingly widespread practice."

https://www.justice.gov/opa/speech/attorney-general-william-p-barr-delivers-remarks-american-law-institute-nationwide

Attorney General William P. Barr Delivers Remarks to the American Law Institute on Nationwide Injunctions

Two district judges in California and New York have nevertheless issued nationwide injunctions against the rescission—that is, effectively requiring the government to reinstate DACA notwithstanding the President's contrary exercise of discretion. Appeals have been ongoing for nearly a year-and-a-half, but the injunctions remain in place.
This saga highlights a number of troubling consequences of the rise of nationwide injunctions:

First, these nationwide injunctions have frustrated presidential policy for most of the President's term with no clear end in sight. We are more than halfway through the President's term, and the Administration has not been able to rescind the signature immigration initiative of the last Administration, even though it rests entirely on executive discretion. The Justice Department has tried for more than a year to get the Supreme Court to review the lower-court decisions ordering us to keep DACA in place.

But the Court has not granted any of those requests, and they languish on its Conference docket. Unless the Court acts quickly and

decisively, we are unlikely to see a decision before mid-2020 at the earliest—that is, right before the next presidential election. It is hard to imagine a clearer example of the stakes of nationwide injunctions. Second, these injunctions have injected the courts into the political process. The first injunction from the Northern District of California came down on January 9, 2018, in the middle of high-profile legislative discussions. Hours earlier that same day, President Trump allowed cameras into the Cabinet Room to broadcast his negotiations with bipartisan leaders from both Houses of Congress over the DREAM Act, border security, and broader immigration reform. Of course, once a district judge forced the Executive Branch to maintain DACA nationwide for the indefinite future, the President lost much of his leverage in negotiating with congressional leaders who wanted him to maintain DACA nationwide for the indefinite future. Unsurprisingly, those negotiations did not lead to a deal.

So what have these nationwide injunction wrought? Dreamers remain in limbo, the political process has been pre-empted, and we have had over a year of bitter political division that included a government shutdown of unprecedented length. Meanwhile, the humanitarian crisis at our southern border persists, while legislative efforts remain frozen as both sides await the courts' word on DACA and other immigration issues.

Third and finally, these nationwide injunctions inspire unhealthy litigation tactics. Last May, Texas and others sued for a nationwide injunction against the DACA policy—in essence, to enjoin the government from complying with the other nationwide injunctions. These States were fighting fire with fire. For their Attorneys General as advocates, that is understandable. But if we consider how things ought to work, it is perverse. Rather than an orderly pattern of litigation in which the Government loses some cases and wins others, with issues percolating their way through the appellate courts, we have an inter-district battle fought with all-or-nothing injunctions.

Fortunately, Judge Hanen spared us the pain of dueling injunctions. Unfortunately, however, the new *status quo* of a DACA policy supported only by injunction has persisted.

Since President Trump took office, federal district courts have issued 37 nationwide injunctions against the Executive Branch. That's more than one a month. By comparison, during President Obama's

first two years, district courts issued two nationwide injunctions against the Executive Branch, both of which were vacated by the Ninth Circuit. And according to the Department's best estimates, courts issued only 27 nationwide injunctions in all of the 20th century.

First, and most fundamentally, nationwide injunctions violate the Separation of Powers. Article III vests federal courts with "the judicial power" to decide "Cases" or "Controversies." As the Supreme Court has instructed, that means concrete disputes among individual parties. In the words of Chief Justice Marshall in *Marbury* v. *Madison*, "the province of the Court is solely to decide on the rights of individuals, not to inquire how the Executive or Executive officers perform duties in which they have a discretion."[3]

ARGUMENTS AGAINST OVERTURNING LAWS

Limiting judicial power to resolving concrete disputes between parties, rather than conducting general oversight of the Political Branches, ensures that courts do not usurp their policymaking functions. This limitation also grows out of the English system of equity, which limited relief in a given case to the parties before the court. As explained by the ALI's First Restatement of Judgments, published in 1942, the English equity system was a system of "personal justice." As Professor Samuel Bray wrote, this means that "an injunction would restrain the defendant's conduct vis-à-vis the plaintiff, not vis-à-vis the world."

This inherited tradition from the English courts is not just a matter of inertia; it is baked into the Article III's vesting of federal courts with "the judicial power" to resolve "cases" or controversies." As Justice Scalia succinctly put it, "[t]he judicial power as Americans have understood it (and their English ancestors before them) is the power to adjudicate, with conclusive effect, disputed government claims (civil or criminal) against private persons, and disputed claims by private persons against the government or other private persons."

INJUNCTIONS HISTORY

Consistent with that understanding, federal courts do not appear

to have issued any nationwide injunctions during the first 175 years of the Republic. The first documented nationwide injunction issued in 1963 from the D.C. Circuit. The absence of nationwide injunctions does not reflect an unwillingness to issue injunctions against the government. Quite the contrary. In 1937, one of my predecessors—Attorney General Homer Cummings—reported that lower courts had issued thousands of injunctions against New Deal programs. But, in keeping with the unbroken English tradition and two centuries of American law, **those injunctions bound the government only with respect to the parties to those cases.** The government continued to enforce New Deal programs against others. For example, Cummings reported that courts issued more than 1,600 injunctions against a particular agricultural tax, but the government still collected it from more than 71,000 non-challengers. Even then, the subsequent Attorney General Robert Jackson described the Judiciary's reaction as "reckless, partisan, and irresponsible. We can only imagine what he would say today.

ARGUMENT AGAINST OVERTURNING LAWS

The novel approach taken by some district courts over the past few years reflects a departure not only from the historically settled limitations of Article III, but also from our traditional understanding of the role of courts. Courts issuing nationwide injunctions often describe themselves as "striking down" or "invalidating" a law. Although we have probably all used such terms as shorthand, the truth is that courts have no authority to "strike down" laws. In our system, they resolve only disputes between parties. As the Supreme Court explained almost a century ago in *Massachusetts* v. *Mellon*, a court may enjoin "not the execution of the statute, but the acts of the official." As one commentator has explained, a court has no power to issue a "writ of erasure," striking a statute from the books.

This might sound like a semantic point, but it goes to the heart of the problem. Courts at the Founding understood their role as addressing only the rights of the parties before them. And if they disregarded a statute or executive policy in the name of "judicial review," it was only because they were bound to apply the higher law of the Constitution. But today, courts pass judgment on laws or executive actions bounded only by **judicial doctrines of "deference."** Assuming the role of gatekeeper, a judge acts as a one-man Council of Revision. That not only embraces a judicial role that the Framers rejected, but also

diminishes the constitutional prerogatives of Congress and the Executive.

Wikipedia: **Judicial deference** is the condition of a court yielding or submitting its judgment to that of another legitimate party, such as the executive branch in the case of national defense. It is most commonly found in countries, such as the United Kingdom, which lack an entrenched constitution, as the essential purpose of such documents is to limit the power of the legislature.

INJUNCTIONS

Second, nationwide injunctions inflate the role of individual district judges within the Judiciary. The Constitution empowers Congress to create lower federal courts, and in designing a system of 93 judicial districts and 12 regional circuits, Congress set clear geographic limits on lower-court jurisdiction. In our system, district-court rulings do not bind other judges, even other judges in the same district. This system has many virtues. It creates checks and balances within the judiciary itself and encourages what former D.C. Circuit Judge Harold Leventhal called "percolation"—the process by which many lower courts offer their views on a legal issue before higher courts resolve it. This process of percolation is not just a good idea; it is the very embodiment of our common-law tradition. In that great tradition, governing legal principles emerge from a scatter-shot of precedent that involves multiple cases, over many years, decided by multiple judges working through legal issues and refining their views.

When a nationwide injunction issues against the government, it short-circuits that process. Because such injunctions prevent enforcement against anyone anywhere, they overshadow related litigation in other courts. After all, even if the government prevails in every other case, a nationwide injunction still prevents all enforcement. It thus gives a single judge the unprecedented power to render irrelevant the decisions of every other jurisdiction in the country.

These are **not hypothetical occurrences. In litigation over the President's policy on transgender military service, the government won a major victory in the D.C. Circuit. Yet because district courts in California and Washington had enjoined the policy nationwide, the D.C. Circuit's decision had no practical effect; the government**

could not implement the policy until the Supreme Court granted a stay. That is not the only example. **The Ninth Circuit recently ordered briefing on whether a nationwide injunction from a Pennsylvania district court mooted the appeal of an injunction from within the Ninth Circuit.** Giving a single district judge such outsized power is irreconcilable with the structure of our judicial system.

Nationwide injunctions not only allow district courts to wield unprecedented power, they also allow district courts to wield it asymmetrically. **When a court denies a nationwide injunction, the decision does not affect other cases. But when a court grants a nationwide injunction, it renders all other litigation on the issue largely irrelevant.** Think about what that means for the Government. When Congress passes a statute or the President implements a policy that is challenged in multiple courts, **the Government has to run the table—we must win every case. The challengers, however, must find only one district judge—out of an available 600**—willing to enter a nationwide injunction. One judge can, in effect, cancel the policy with the stroke of the pen.

No official in the United States government can exercise that kind of nationwide power, with the sole exception of the President. And the Constitution subjects him to nationwide election, among other constitutional checks, as a prerequisite to wielding that power. Even the Chief Justice of the United States must convince at least four of his colleagues to bind the Federal Government nationwide.

Third, nationwide injunctions undermine public confidence in the Judiciary. When a single judge can freeze policies nationwide, it is not hard to predict what plaintiffs will do. In Professor Bray's memorable phrase, they "shop 'til the statute drops." Requests for nationwide injunctions thus flooded Texas district courts in the Obama Administration, while similar requests have landed in California and New York in the Trump Administration. I am not here to question any judge's motivation. But even assuming all good faith, **the appearance of forum shopping is inescapable and damaging to the ideal of an impartial judiciary.** The consequences will be far-reaching and could include **politicizing the district-court confirmation process** in ways similar to what we have seen for the Courts of Appeals and Supreme Court. We should not want that to happen.

Fourth, nationwide injunctions create unnecessary and unhelpful emergencies. When a nationwide injunction constrains a significant executive policy, the Justice Department has **little choice but to seek emergency relief.** No one benefits from emergency litigation—not the Government, not the plaintiffs, not the courts. But the **alternative is for the Government to wait months or years for appeals to run their course** before the Executive may implement its policy at all.

Finally, nationwide injunctions conflict with the litigation system that Congress chosen mechanisms for aggregate litigation. One of the few potential defenses of nationwide injunctions is that they promote uniformity. Of course we value uniformity in our legal system. But we already have ways to achieve it—usually, through review by the Supreme Court on a writ of certiorari after an issue has percolated through the lower courts. When the Supreme Court issues a nationwide ruling in that posture, **we have more confidence in it due to the preceding efforts of the lower courts. Nationwide injunctions turn that process on its head. They treat the first case as if it will be the last.**

Congress and the Federal Rules Committee have also designed mechanisms for aggregate litigation where appropriate, but none authorizes a nationwide injunction. Consider Federal Rule of Civil Procedure 23, which allows plaintiffs to bring a class action on behalf of unnamed parties, sometimes across the nation. Still, they must meet a series of procedural and substantive requirements, including that class **members share typical claims and that the named plaintiffs will adequately represent absent class members. The rules also provide in many cases for absent class members to receive notice of the action and the opportunity to opt out. Members of the class are also generally bound by the district court's judgment and precluded from relitigating in a different court. Nationwide injunctions do not work that way.**

ALI bears some small measure of blame. The commentary of *The Principles of the Law of Aggregate Litigation*, published in 2010, states that "[l]itigation seeking prohibitory or declaratory relief against a generally applicable policy or practice is already aggregate litigation in practice, because the relief that would be given to an individual claimant is the same as the relief that would be given to an aggregation of such claimants." Not only is the comma before "because" a grammatical sin, but we all know that precision about procedure and the limitations of precedent matters. They should not be so easily elided.

* * *

To end where I began, I raise the problem of nationwide injunctions as a matter not of partisanship, but the rule of law. One can easily imagine a future Administration's policies—say, on climate change or employee rights—freezing under nationwide injunctions for years on end. Imagine, for example, if a new Administration were to abandon a "zero tolerance" policy on immigration offenses only to see a district court order it back in place. One could draw up countless other scenarios.

I do not want to see any of them. Nationwide injunctions undermine the democratic process, depart from history and tradition, violate constitutional principles, and impede sound judicial administration, all at the cost of public confidence in our institutions and particularly in our courts as apolitical decision-makers dispassionately applying objective law.

The Justice Department will continue to oppose nationwide injunctions, as we have across administrations of different ideological perspectives. I hope you will make your voices heard on this issue too. At a time of deep differences on so many legal and policy issues, this is one area where lawyers and citizens should agree.

That principle is now before the U.S. Supreme Court.

Trump v. Pennsylvania, which the U.S. Supreme Court agreed January 17, 2020 to hear, is about a challenge to one of those nationwide injunctions ordered by a single district judge. Such injunctions create judicial chaos where a single lower court judge can topple the work of a thousand other judges. And the plaintiffs challenging the law can go anywhere in America looking for just one lower court judge willing to make a name for himself.

"Even if 1,000 judges have upheld a law," the Heritage Foundation observes, "one granting a universal injunction means that the law cannot be enforced anywhere."

https://casetext.com/case/little-sisters-of-the-poor-saints-peter-and-paul-home-v-pennsylvania

Although the opinion overturned the district court's nationwide injunction, Footnote #28 of the dissent by Ginsberg and Sotomayor said the lower court did not "abuse its discretion".

Although the Court does not reach the issue, the District Court did not abuse its discretion in issuing a nationwide injunction. The Administrative Procedure Act contemplates nationwide relief from invalid agency action. See 5 U.S.C. § 706(2) (empowering courts to "hold unlawful and set aside agency action"). Moreover, the nationwide reach of the injunction "was 'necessary to provide complete relief to the plaintiffs.' " Trump v. Hawaii , 585 U. S. ——, ——, n. 13, 138 S.Ct. 2392, 2446 n. 13, 201 L.Ed.2d 775 (2018) (SOTOMAYOR, J., dissenting) (quoting Madsen v. Women's Health Center, Inc. , 512 U.S. 753, 765, 114 S.Ct. 2516, 129 L.Ed.2d 593 (1994)). Harm to Pennsylvania and New Jersey, the Court of Appeals explained, occurs because women who lose benefits under the exemption "will turn to state-funded services for their contraceptive needs and for the unintended pregnancies that may result from the loss of coverage." 930 F.3d at 562. This harm is not bounded by state lines.

Little Sisters of the Poor Saints Peter and Paul Home v.

Pennsylvania, 140 S. Ct. 2367, 207 L. Ed. 2d 819 (2020)

District court injunctions have nullified the work of many other contemporary judges, but of judges over the centuries. What is the origin of such power in a single district judge? Does any legal or constitutional principle require such unilateral power? Or is that just a power that some bold district judge seized, that no one stopped?

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Conflicting Prolife Goals

Two conflicting goals have divided prolife lawmakers for half a century: (1) the goal of getting abortion outlawed comprehensively, (ie. not just surgical but chemical abortions, no exceptions for rape or incest, etc.) and (2) the goal of getting the law passed and safely through courts.

It has seldom been thought possible to achieve both goals. The strategy here has a third goal designed to make goals #1 and #2 easy, but whose initial draft will seem to violate #1 because it leaves whole areas of baby killing unaddressed, and to violate #2 because it outlaws way more than many prolife lawyers will think possible.

This third goal is to get judges out of the way of saving lives in about a year, so legislatures will have the green light to deliberate on all the details as comprehensively as their voters will accept, and not only that, but to educate voters so voters will not just accept but demand much more.

In other words the purpose of this bill is NOT to

comprehensively define, now, what rights to live babies ought to have, but to push away judicial and political obstacles to legislators defining, in as soon as a year, what rights to live babies ought to have. It is like an earth mover which must first come along and reconfigure a hill so that a cement truck can come later and lay down a road. The two functions must not be confused. The earth mover must not be barred from the work area because it will not lay down a road.

Obstacles to Saving Lives

Obstacle #1: America's Smartest Judges Can't Tell if Babies of People are People. Hard to believe, but read it and weep: http://savetheworld.saltshaker.us/wiki/Troubling_Excerpts_&_Analysis_from_Dobbs_v._Jackson

Obstacle #2: Lingering Lower Court Precedent that Roe made Babies nonPersons "as a matter of Law". Lower appellate courts in abortion prevention cases used to say that evidence that babies are in fact fully human is irrelevant – therefore inadmissible, because Roe made babies nonpersons "as a matter of law". Roe never said such a thing, and it is absurd to imagine that any legal authority in America can make murder legal simply by saying that the human beings to be murdered aren't people "as a matter of law". But that's what courts said.

Indeed, Dobbs said "We hold that Roe and Casey must be overruled." But lower courts weren't held back from making up a holding not found in any SCOTUS ruling in 1973, so they are capable of the same stunt in 2023. Especially since Dobbs is as noncommittal on the humanity of babies as was Roe.

Obstacle #3: ... America let them get away with it. Prolife legislation that made it to SCOTUS (and most of the rest) never challenged the myth that Roe made babies "nonPersons". They didn't make the humanity of babies an issue that courts needed to address.

(*Webster*, 1979, said babies are people but also said Missouri would obey *Roe*, so SCOTUS said when Missouri actually restricts abortion is when SCOtUS will think about whether babies of people are people. *Dobbs*, 2022, said babies *are* people but Attorney General Stewart called it "hot" and "difficult" whether to continue their murders! That's an issue upon which the AG said SCOTUS should

remain “scrupulously neutral”!

[See my analysis of December 1, 2021 oral arguments at http://savetheworld.saltshaker.us/wiki/**Valentine_Letter_to_Supreme_Court_Justices:_outlaw_baby_killing_in_EVERY_state**]

In the decades before *Dobbs,* instead of pointing out that babies of humans are humans which makes dismembering them murder which no state can be allowed to legalize, states bowed to *Casey*, 1992, which said no abortion restriction can be “substantial” - nor can *any part* of its purpose be to reduce abortions.

Although over 60,000 were arrested for blocking baby killing doors and their defense in court was that they were saving lives, those “lawbreakers” didn't even have majority prolife support much less full Republican support, making their defense easy to gaslight.

To this day no state in its prolife laws or courtroom defense has pointed out that the FACT that unborn babies are fully human is dispositive, and is “established” by 38 states in their “unborn victims of violence” laws, dozens of juries in abortion prevention cases when judges allowed them to hear the Necessity Defense, tens of thousands of expert witnesses in those trials who were never countered, Congress in 18 U.S.C. 1841(d), and by every judge who has taken a position. Or that no American court-recognized fact finder that has taken a position on “when life begins” has fixed any *later* time than fertilization.

If the consensus of every American court-recognized fact finder is not enough to establish a fact enough for a judge to know it, it is impossible for any judge to ever know anything.

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It is impossible for any judge to squarely address
this evidence and keep abortion legal. But no state has
presented this evidence in any court. Meanwhile judges
think it is unethical to rule according to evidence
submitted by neither party to a case.
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No state has made these points in court. Making them in the law’s “findings” will force the ruling to quote them, which will force judges to address them.

For example, after quoting #2 of the law proposed here, which calls unanimous lower appellant precedent “the opposite of what Roe or any other SCOTUS precedent said”, courts couldn’t just ignore that claim. They would have to deal with it. Never mind the public pressure to deal with it. Their pride would force them to deal with it. Which will be quite a spectacle, because the last thing they want to do is outlaw all abortions, but it is impossible for any judge to squarely address this evidence and keep abortion legal.

Public education is needed to help pressure judges to squarely address the findings. The Judicial Accountability Act will make the pressure overwhelming. (http://savetheworld.saltshaker.us/wiki/**Judicial_Accountability_Act:_How_Legislatures_can_stop_judges_from_legislating**)

CAVEAT: Obviously, women do have a "fundamental right" to manage their own health, including removing foreign objects from their bodies which are not people. This strategy in no way targets cancer operations.

Expedited Review in federal law

Every prolife bill ought to include: Any court review of this law must be expedited, since lives are lost with each day that courts delay.

The power of this addition is explained on page 3, top. This article is about the use of expedited review in law generally.

Legislatures sometimes require courts, in time-sensitive cases, to rule quickly. Usually expedited review is an option for judges, when a party to a case requests it. When a court reviews the constitutionality of a state law, the state is a party to the case.

Examples: Expedited Review Grounds

DC Circuit Federal Court: A party seeking expedited consideration generally "must demonstrate the delay will cause irreparable injury and that the decision under review is subject to substantial challenge"; but "[t]he Court may also expedite cases . . . in which the public generally [has] an unusual interest in prompt disposition" and the reasons are "strongly compelling." - U.S. Court of *Appeals for the DC Circuit, Handbook of Practice and Internal Procedures 40 (1987).*

9th Circuit: The requesting party must make a showing of "good cause," where irreparable harm might occur or an appeal might become moot. Rutter 6:149.

10th Circuit: Appeals can be expedited under 28 U.S.C. 1657 for "good cause."

Iowa: Iowa Rule of Appellate Procedure 6.902 has special rules

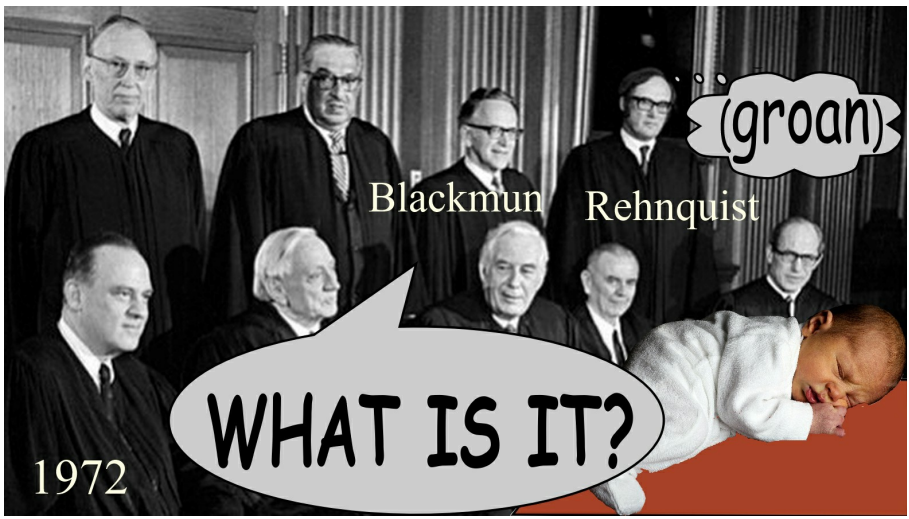
for children's issues (since children might not remain children through a years-long case) and lawyer disciplinary proceedings. (Babies are children.)

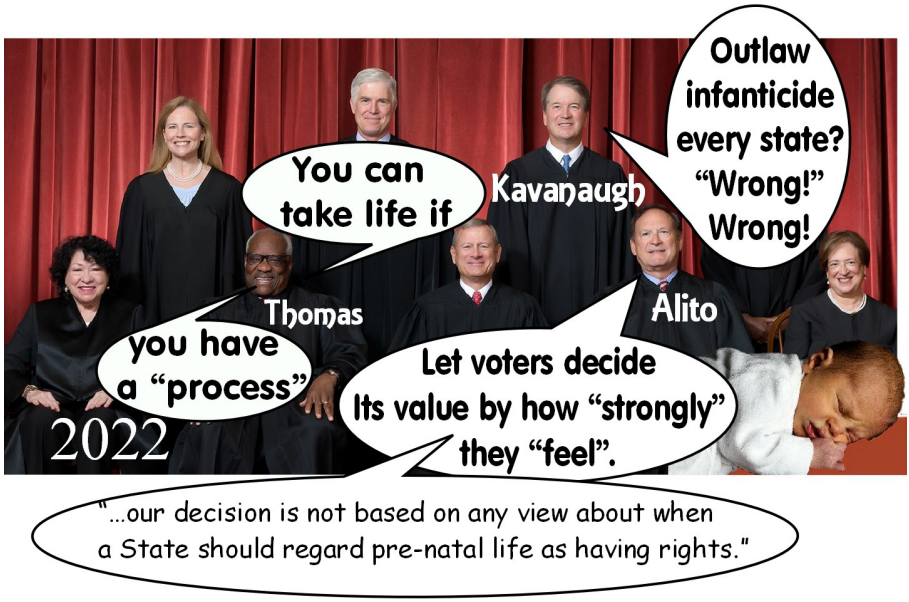
3rd Circuit: Rule 4.1 says a motion for expedited appeal must set forth the exceptional reason that warrants expedition and include a proposed briefing schedule.

4th Circuit: Rule 12(c) says "A motion to expedite should state clearly the reasons supporting expedition...."

7th Circuit: Appeals can be expedited under 28 U.S.C. § 1657 for "good cause." (Reasons must be given.)

Expedited Appeal Law and Legal Definition (An explanation at uslegal..com): "The court will speed up cases involving issues of child custody, support, visitation, adoption, paternity, determination that a child is in need of services, termination of parental rights, and all other appeals entitled to priority by the appellate rules or statute." Other grounds: "the constitutionality of any law, the public revenue, and public health, or otherwise of general public concern or for other good cause," (Source: rcfp.org lists expedited review rules for each federal circuit court and for each state's courts.)




Outlaw infanticide every state? "Wrong!" Wrong!
You can take life if
Kavanaugh
Thomas
you have a "process"
Alito
Let voters decide Its value by how "strongly" they "feel".
2022
"...our decision is not based on any view about when a State should regard pre-natal life as having rights."


WHAT IS IT?
(groan)
JURIES
EXPERT WITNESSES
CONGRESS
STATES
JUDGES
Roe's question answered
Court tested fact finders
We're people. All of us. Now you know. Killing people is murder. No state can legalize murder. Don't ignore it.
2023?

Chemerinsky: A third way SCOTUS has emasculated Section 5: "In *Shelby County, Alabama v. Holder*, the Supreme Court, in a 5-4 decision, held that the formula in the Voting Rights Act [enacted by Congress] defining which states and counties have a history of discrimination in voting, and are therefore required to get approval before changing their election systems, is unconstitutional....States immediately implemented voting laws that had been blocked by the Attorney General as discriminatory."

Substantive Due Process

LONANG Institute:

Lonang Institute in its amicus in Dobbs. www.supremecourt.gov/DocketPDF/ 19/19-1392/ 185037/20210727131024868_19-1392%20tsac%20Lonang%20Institute.pdf

A review of the text of the fourteenth amendment reflects no textual support for any "substantive due process" clause. Even the term is an oxymoron. If we took the words in their ordinary meaning, "due process" merely signifies a proper procedure. The word "substantive," on the other hand, means rights and duties as opposed to the procedural rules by which such things are established or enforced. Thus, the term "substantive due process," in plain English, means non-procedural proper procedure. Logically, "substantive due process" is a type of "A = Not A" statement, where something is procedural and not procedural simultaneously. But unlike philosophy or mathematics, An "A = Not A" statement in a legal context is just plain illogical. Either the Court, when invoking substantive due process, is talking about procedure or it is not. If yes, then due process as a legal doctrine stands on its own and there is no need to resort to substantive due process. If no, then due process does not affect the matter, for it does not relate to procedure. This brings us back to Eden [when the Serpent offered an alternative interpretation of what God meant] where the argument was first made that the words of the law do not mean what they say. While we acknowledge the argument has the weight of time behind it, originating in great antiquity, we respectfully urge the Court not to follow that ancient precedent.