Stop Legal Infanticide by Christmas (SLIC)

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SLIC and www.Saltshaker.US are ministries of The Partnership Machine, Inc.

SLIC Volunteers needed NOW! The Project Overview:

Strengthen Personhood Initiatives

1. Offer tools to help pass initiatives and raise funds
2. Provide teeth for initiatives, so that the legislation they pass will not be ignored, but will actually bring down legal infanticide.

Contents: Part One, Tools for Passage. The overview of the issue, from www.Saltshaker.US/SLIC.

Part Two: Teeth for Initiatives: how the Scott Roeder precedent shaping up creates new legal realities in which lawmakers will not have forever to act on the legal rights they already have to criminalize abortion.

Part One: Tools for Passage

Introduction of basic facts, for readers new to the abortion debate:

"Abortion" is the act of killing a child while still in his mother's womb, usually by a medical doctor, although "abortion clinics" are exempt from all the regulations that govern medical clinics. 50 million American babies have now been slain, (not counting the victims of "birth control" which kill the child after conception but before implantation), so this article uses the more descriptive term "infanticide", which combines the words "infant" and "genocide".

The most common infanticide, at the youngest ages, tears the body apart, limb from limb, with a forceps. At a later age, 4 or 5 months, a salty solution is injected into the amniotic fluid which burns the child alive; think of being thrown into a vat of acid that turns over half your skin black, and burns your lungs as you sink below the surface. In the last couple of months before birth, the weapon of choice of the professional killer is tearing limb from limb, an injection to the heart, or "partial birth", where the baby is delivered feet first and while only the head remains in the womb, scissors stab into the back of the head and a vacuum removes the brains. Women came to George

January 22, 1973, the U.S. Supreme Court overturned all those state laws, prohibiting states from protecting all those children. The ruling was captioned *Roe v. Wade*.

Before 1973 infanticide was a crime in most states. In fact, even the justices that decided Roe, when talking about what we today call Partial Birth abortion, called it "homicide". (For the transcript, see www.Saltshaker.US/Scott-Roeder-Resources/Brief4Roeder.pdf page 65.)

Roe did not deny that babies are human beings, or "persons" as the Constitution uses the word, with full constitutional rights, including the Right to Life which is the first right listed in the Declaration of Independence. Rather, the ruling asserted that America's "judiciary" are incapable of knowing whether the babies of human beings are themselves human beings. The ruling said if clear evidence ever steps forward documenting that they are human beings, then legal abortion must immediately "collapse".

The ruling indicated that this "collapse" could become necessary in two ways: by laws defining the unborn as human beings, or by establishing that the humanity of the unborn is a fact.

Roe said "the unborn have never been recognized in the law as persons in the whole sense." The implication is that once the unborn are so recognized in the law, Roe must "collapse".

Roe also said:

> 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.

Obviously the Court considers the "question of when life begins" as a fact question, not a question of law; since the Court would consider itself the world's experts on the law, and would not defer to the opinions

of doctors and preachers! The implication is that once doctors and preachers become unanimous in declaring that a human being begins at conception, the Court will immediately "collapse" legal infanticide. Since 1973, doctors who take a position are virtually unanimous that "life begins at conception", and preachers who trust the Bible have always been virtually unanimous; but theologians whose trust is elsewhere are all over the road.

The Court's Expert Witnesses on "when life begins", doctors and preachers, are only one way courts establish facts: the other way is by relying on what courts call "Triers of Fact" or "Judges of the Facts": juries. Several juries indeed, over the first 20 years after Roe, looked at the facts and unanimously concluded unborn children are fully human beings and therefore killing them is horrible enough to put a stop to it by sitting in front of infanticidist's doors. Such evidence was rarely contradicted by the prosecutor, who thought they should only have to bring their parade of witnesses to prove the defendant actually did sit in front of such and such door. In such cases, what the defendant did was seldom seriously contested. The defendant's position was "of course I did it. Now let me show you the evidence I saw, about what infanticide does, which justifies what I did." Once the judge ruled that the jury was allowed to see the defendant's only defense, the infanticidists usually dropped their prosecution, *according to Cincinnati Law Review, U.Cin.L.Rev. 501 (1979), footnote on page 502]* because they feared a precedent that would end legal abortion.

But instead of applying that evidence to the "collapse" of legal infanticide, as Roe had instructed, courts stopped allowing juries to even know such evidence existed. Judges ordered door blocking defendants to not say a word to the jury about the nature of abortion, even though that was the only contested issue of such trials, and the defendant's only defense. Sometimes judges would explain they were censoring the evidence because "it would prejudice the jury". Perhaps that means the evidence would have "prejudiced the jury" to acquit a Christian who obviously ought to be in jail, according to the judge. Mostly they ruled without explaining.

Over a dozen state supreme courts backed them up, asking, "how can abortion be legally recognized as harmful, when it is constitutionally protected?" Upon that reasoning, they ruled expert testimony that "life begins at conception" irrelevant. They ruled such evidence "inadmissible", meaning the jury was not allowed to know it exists. Even though the nature of abortion is a "fact question", and even though this one "fact question" was the ONLY seriously contested issue in over 60,000 cases, and even though juries are called "judges of the facts" because they certainly aren't allowed to even read a law, much less judge the applicability of one, judges in all those cases called that one issue "a question of law" so they could judge it before the jury was even called. When the judge decides the only issue of a trial, and the only defense, before the jury even meets, and orders that the jury not hear a word of it, can you still call it a "trial by jury"?

Indeed, "How can abortion be legally recognized as harmful, when it is constitutionally protected?"

This question assumes that the Constitution could never possibly make a mistake and protect what might hurt people, so therefore evidence that what the Constitution protects *does* hurt *lots* of people is inadmissible, since it cannot possibly be true.

Closer to home, the question assumes the nine justices could never possibly make a mistake about what the Constitution protects! Therefore, evidence that they did is, by definition, fraudulent, and therefore "irrelevant".

The question violates Roe v. Wade, which clearly said legal infanticide might very well be a huge mistake, and if evidence ever shows it to be so, its legality must "collapse".

Outside the courtroom, U.S. citizens have a dandy little perk called "freedom of speech" to criticize both church and state. But in over 60,000 cases, there has been no free speech to criticize the revered reasoning of the U.S. Supreme Court.

Outside the courtroom, there are Personhood Initiatives to define the unborn as human persons in state and federal law, hoping that will meet Roe's criteria for its "collapse". But Louisiana, Missouri, and Nebraska have had such laws over 20 years, and federal law has had such a law since April Fool's Day, 2004, yet legal infanticide appears as impregnable as ever. This article will attempt to explain why, and what will change it.

Claiming the Mainstream.

When state personhood initiatives are explained not as imposing radically new legal conditions on the whole nation, but as merely conforming state law to federal law, they are perceived as more "mainstream".

Conforming state law to federal law is the Holy Grail of many state lawmakers. And fund raising is easier for a movement that improves national conditions only slightly, than a movement that pulls out evil by its roots.

Fortunately this information does not distance itself from life saving truths to be more acceptable to the mainstream, but rather it documents life saving truths as the genuine legal mainstream.

It is not for SLIC to tell Personhood initiatives what to say or how to say it, but the following is information which Personhood volunteers are free to use as God leads them.

Overview of the issue from www.Saltshaker.US/SLIC:

> *The contribution of state personhood initiatives is not to impose a radically new legal environment on the nation, but merely to bring state laws into conformity with federal laws like Roe v. Wade, Laci and Conner's Law, the Preamble, Due Process, the Necessity Defense, the Declaration of Independence, as well as Nuremburg precedents, the Laws of God, and basic, common human decency.*

For details, please see the SLIC Joint Resolution at www.Saltshaker.US/SLIC. A convenient way for Personhood supporters to educate the public about how truly mainstream, legally, Personhood initiatives are, would be to help ask candidates to cosponsor this Joint Resolution.

Part Two: Teeth for Personhood Initiatives

Even after three states declared the personhood of the unborn, that didn't end the legality of infanticide! Missouri did 22 years ago and still permits abortions!

> *Mo. Rev. Stat. 1.205.1: ...the life of each human being begins at conception...unborn children have protectable interests in life, health, and well-being [and all Missouri laws] shall be interpreted and construed to acknowledge on behalf of the unborn child at every stage of development, all the rights, privileges, and immunities available to other persons, citizens, and residents of this state, to the extent permitted by the Constitution and U.S. Supreme Court rulings.*
> [The Supreme Court ruling, Roe v. Wade, "permits" this personhood definition to legally "collapse" Roe and "legal abortion", through its "collapse clause".]

Yet today Missouri has a new Personhood initiative – to update the law to cover cloning and contraception, but also to strengthen it to make it harder for lawmakers to ignore. But why do lawmakers and courts ignore the old wording? Nebraska and Louisiana have had similar language about the same length of time!

How to grow "teeth" for Personhood movements is summarized at www.Saltshaker.US/SLIC:

> ***Ignore No More!*** *Personhood initiatives will grow teeth by explaining the evidence that no legal reason remains for lawmakers not to criminalize infanticide. SLIC surveys of all candidates will challenge lawmakers to take a position on this evidence. Affirming the Roeder record puts a deadline on admitting the evidence: for as long as states do not protect the unborn, contrary to law, there will be a legal defense for individuals who do.*

Indeed, while it is thought that lawmakers can do nothing until the Personhood initiative succeeds, lawmakers can leisurely wait for that to happen, knowing even after that they can take their sweet time deciding if that was enough authority for them to conveniently do something.

But if the thousands of petition signers are seen to represent growing public consensus that lawmakers *already* could have acted, the heroic efforts of getting the petitions signed will be understood as undertaken only to make lawmaker's job embarrassingly easier, shaming lawmakers who hesitate to act even after stronger Personhood language is in the law.

But the most urgent pressure to act will be from understanding the consequences of indefinite inaction, made more urgent by precedents being created in the Scott Roeder case.

There may be a dead-line for action.

Literally.

The status quo may not wait forever for lawmakers to take advantage of opportunities they already have to end legal abortion.

After our initiatives make doing the right thing even easier for them, precedents now being created may not give them very much more time to poke around deciding if we made it easier enough.

The status quo was shaken when Judge Wilbert recognized a defense in the law which could potentially reduce Roeder's jail time to as little as 2 years, for shooting America's leading infanticidist. NARAL and the ACLU told the press they were terrified, because so light a sentence would make many more potential shooters willing to pay the personal price of shutting down infanticide.

They were so terrified that they submitted an amicus brief to the trial court, even though court rules do not permit such briefs before the trial court, but only before the Supreme Court, and even then only after the Supreme Court grants permission to file a brief!

They were afraid to wait for the time designated by law, and we need also to recognize the urgency of the situation.

They would appear to have concluded that the defense for Scott was not some fluke, some anomaly of Kansas law which will never apply again, and never outside Kansas. This is one of those rare times where SLIC agrees with the ACLU and the National Abortion Federation.

The case exposes a fundamental loose end of infanticide jurisprudence.

Roe v. Wade asserted jurisdiction only over *states*, under the 14th Amendment which restricts only *states*. Roe nullified *state* laws that protected the unborn.

Roe v. Wade never asserted jurisdiction over *individuals*. Roe never nullified defenses like Necessity, Defense of Others, Voluntary Manslaughter, or a challenge to the mens rae of First Degree Murder, that provide a defense for *individuals* who save the lives of human beings.

Murdering unborn babies may be legal, but so is saving baby human beings from murderers, provided the life saver uses the least violent means of saving lives. Because of the fact that the temporary but less violent means of sitting in front of the infanticidist's doors was still subject to vigorous arrest and prosecution, because of the FACE act, shooting Tiller was the least violent means of saving the 2,000+ children whom Tiller otherwise would have tortured to death just between Roeder's arrest May 31, 2009, and Roeder's sentencing April 1, 2010.

State supreme courts have tried to contain this ticking bomb by violating Roe v. Wade's "collapse" ruling in the name of honoring Roe. (See the SLIC Joint Resolution.) If it is not enough that the reasoning is easy to refute on its face, all those state supreme court precedents are around 20 years old and have been outdated by new law and precedent. But all that began to unravel when the Voluntary Manslaughter statute came before Judge Wilbert's court. No precedent was available to counter the irrefutable common sense of the statute. On what rational grounds could Wilbert censor it? The facts of Scott's case precisely matched the criteria of the statute.

Another attempt to criminalize saving lives was the FACE act (Freedom of Access to Clinic Entrances) passed in 1992. It made the penalty for sitting three times in front of an infanticidist's office the same as for shooting the infanticidist, thereby precipitating the first shooting in 1993.

FACE makes it illegal to save blobs of tissue from "doctors who are providing a legal service – enabling women to enjoy their constitutional rights". Many assume FACE similarly makes it illegal to save baby human beings from infanticidist murderers. But FACE has no such power.

FACE cannot repeal the Necessity Defense. The Necessity Defense is beyond the reach of any law, because it derives its power from facts. If a human being is *in fact* about to be murdered, the Necessity Defense sets aside the legalistic enforcement of the letter of ANY law that would punish preventing the murder! FACE included!

The assumption behind this historic defense is that no law could possibly *intend* to enable even a single murder! That would make law lawless! Therefore in a situation where enforcement of the law would enable murder, it must be assumed the framer of the law never intended his law to apply in that situation. The only logical alternative is to assume the lawmakers, or in this case justices, were all cutthroat pirates who should be the subjects of our criminal justice system, not the authors of it!

This is the same reasoning behind the Supreme Court's "absurd result" rule. Where enforcement of a law would lead to an "absurd result", the law must be interpreted as not in force. It would be absurd to reason that Supreme Court justices deliberately intended to protect the mass murderers of innocent children. (For more about the "absurd result" rule, see www.Saltshaker.US/Scott-Roeder-Resources/Brief4Roeder.pdf, page 34.)

Indeed, Roe v. Wade itself never intended abortion to remain legal after the *fact* was established that the unborn are human beings. FACE certainly doesn't say the unborn are *not* human beings. *Neither does any other legal authority.* It would be absurd to say FACE's intent is to protect murder of human beings. FACE certainly says no such ridiculous thing.

Laws cannot change facts, The babies of human beings are human beings. No law can nullify that fact. The possibility that the Roeder precedent will recognize a defense for saving the lives of thousands of human beings is not a bizarre fluke, but a recognition of the fundamental nature of America's Rule of Law, which is a fundamental "loose end" of infanticide law.

Amending Necessity Defense Laws

There is a simple way a state legislature can guarantee the end of all shootings of infanticidists: conform their Necessity Defense law (every state has one) to federal law by clearly protecting all human beings from conception, and by defining "imminence" as sufficiently near in time that the feared harm is certain, it is too late for less violent alternatives, and the window of opportunity to stop the unthinkable threat is closing.

This would guarantee that district and city courts would uncensor the Necessity Defense in future door blocking cases, which would allow Christians to block the doors of infanticidists without fear of arrest, enabling them to end legal abortion without firing a shot. When this nonviolent means of ending infanticide is available, the Voluntary Manslaughter defense, for shooting, will no longer be the least violent means of ending infanticide, and therefore will be unavailable as a defense.

Not that amending Necessity Defense statutes is legally necessary before the Necessity Defense can be available in abortion prevention cases.

The Necessity argument can still be made in Roeder's case in Kansas, even though Kansas' version of the Necessity Defense, 21-3211, not only says nothing about unborn humans, but limits the defense to the prevention of "unlawful force". In other words, it doesn't apply to stopping "legal" infanticide.

Yet even in the Kansas precedent quoted endlessly in Roeder's trial record, the Supreme Court recognized that when Kansas law codified only one aspect of the Necessity Defense, there might still be other aspects of the Necessity Defense which should still be recognized as the law in Kansas even though they aren't specified in the Code. The Court said, in 1993, that they should be addressed in the future.

> ...the necessity defense, except as codified in statutes such as those relating to self-defense and compulsion, has not been adopted or recognized in Kansas. Nor do we find it necessary in the resolution of this appeal to make such a determination. *Whether the necessity defense should be adopted or recognized in Kansas may best be left for another day.* The issue before us is simply whether the necessity defense, if it were recognized, even applies at all in a case such as this one. Although *we decline to specifically determine whether the necessity defense should be adopted or recognized* in Kansas...As a result, we conclude that *we need not determine the precise scope of the necessity defense available in this state*....We again point out that our opinion should not be construed as an indication that we recognize or adopt the necessity defense as the law in Kansas. We make no such determination here." (*City of Wichita v. Tilson,* 855 P.2d 911 (Kan.), cert. denied, 510 U.S. 976, 114 S. Ct. 468, 126 L. Ed. 2d 420 (1993)

The ruling relied on the definition of the Necessity Defense in the exhaustive volume "Criminal Law", by "Professor Robinson". In Robinson's definition, it is irrelevant whether the threatened harm (in this case, abortion) is "legal". What is relevant is whether the "interest furthered" (in this case, saving thousands of human beings from infanticide) is legal. In other words, the Necessity Defense isn't available to protect drug smugglers from being arrested, since drug smuggling is not legal.

> (an action is justified) that avoids a harm or evil or furthers a legal interest greater than the harm or evil caused by actor's [defendant's] conduct" 2 Robinson, Criminal Law Defenses § 124(a) pp. 45-46 (1984).

Unfortunately, after correctly quoting Robinson, the Court turned his definition upside down by ruling that it is irrelevant whether thousands of human beings were saved from infanticide. What is relevant is whether the threat to those innocent human souls is "legal".

The Court accomplished this with a Straw Man argument. The importance of understanding this

device outside Kansas is that about that time, dozens of other state supreme courts reached almost the same conclusion, using the same Straw Man device to conclude that as long as mass murder is legal, there is no defense for anyone who interferes with it.

A "straw man", in logic, is where, instead of addressing your opponent's position, you address your distorted characterization of your opponent's position – distorted in a way that makes it easier to refute.

Elizabeth Tilson's express purpose for sitting in front of infanticidist doors was to save the lives of the helpless humans being carried through them to be murdered. She even brought expert testimony to trial that those she saved were human beings, since Roe v. Wade had said "the judiciary, at this point in the development of man's knowledge," has trouble grasping this obvious fact.

The Court ruled that all that evidence was "irrelevant", even though Roe v. Wade had ruled such evidence relevant enough, should it come forward, to "collapse" legal abortion! And even though the Necessity Defense, as formulated by the Court's expert, "professor Robinson", would have welcomed such evidence to determine whether the "interest protected" was "legal". ("Saving human lives" is a more compelling "legal interest" than saving a tumor, which invokes no legal defense.)

The Court's reasoning was not that "the defendants' criminal trespasses at infanticidist facilities to prevent legal abortions of life forms [of whose humanity the judiciary is uncertain], may not be justified under the Necessity Defense."

No, that is not the way the Court put it. That would have been too embarrassingly accurate. That would have described Elizabeth Tilson's lawful motive, and the Court's lawless trampling of it.

Instead, the Court's reasoning was

> In our view, the defendants' criminal trespasses at medical clinics to prevent legal abortions may not be justified under any reasonable formulation of the necessity defense."

Obviously there is no defense for breaking a law for no better reason than to "prevent legal abortions". "To prevent legal abortions" is the Straw Man's defense: "to save innocent human souls" was the defendant's defense.

The Tilson Court wasn't content with a single Straw Man. Later the Court said what *really* motivated Tilson was not any concern for human life at all but "to prevent a lawful, constitutional right".

> When the objective sought is to *prevent by criminal activity a lawful, constitutional right,* the defense of necessity is inapplicable, and evidence of when life begins is irrelevant and should not have been admitted.

Yet a third Straw Man was "in order to interfere with the rights of others."

> We therefore conclude that *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.* (P. 917)

And...

> We cannot allow each individual to determine, *based upon his or her personal beliefs, whether another person may exercise her constitutional rights.*

The ACLU/National Abortion Federation amicus brief (which was submitted in violation of court rules) wasn't content with a scant *three* Straw Men! It contains 11 of the flammable fellows! (Not counting nearly half a dozen quotes of Tilson's Straw Men!)

> "...a defendant's sincerely held political beliefs cannot absolve him of liability or garner him more lenient treatment for the commission of a criminal act – here, murder – that is explicitly designed to obstruct other individual's exercise of their constitutional rights."
>
> "Defendant's opposition to abortion does not entitle him to nullify the constitutional rights of those with whom he disagrees.
>
> "...on the basis that he sincerely believes abortion should be illegal,..."
>
> "the killer was motivated by opposition to abortion."
>
> "(Roeder's defense was "solely" that) the victim was a physician who provided abortion care that the Defendant opposes...."
>
> ...Defendant's assertion [that he met the criteria of the] voluntary manslaughter defense, on the basis of his opposition to abortion....
>
> The murder of Dr. Tiller in order to prevent him from performing abortions....

> ...the term "unreasonable belief," as used in the voluntary manslaughter statute, does not refer to the defendant's world view, or raise the question of whether the defendant genuinely disagrees with state and federal law.
>
> (Roeder can't be acquitted) because of his honest belief that abortion should not be constitutionally protected or that a fetus should be considered a person in the context of abortion under Kansas law.
>
> (The defense) is not available where, as here, he simply disagrees with the law governing self-defense.
>
> ("Unprecedented" is the word for) any decision allowing him to argue that his anti-abortion beliefs justify the (defense).

Not once did the ACLU brief even hint that Roeder might have acted to save living human beings!

Why Legal Abortion Didn't "Collapse" Years Ago

If Personhood declarations years ago were authoritative enough to "collapse" legal abortion, then why didn't they? When "legal abortion" was young, and with little public inertia behind it, why did "personhood" declarations fail to "collapse" it?

I should explain the question: currently there are initiatives in several states to declare that the unborn are "persons". Similar efforts in Congress, including a Constitutional Amendment, were all aborted in the first trimester. Theoretically, declaring the unborn are "human beings" and "persons" should "collapse" legal abortion, because right in the Roe v. Wade ruling, it said:

> If this suggestion of personhood is established, the appellant's case [for legalizing abortion], of course, collapses, for the fetus' right to life would then be guaranteed specifically by the [14th] Amendment....[but] the unborn have never been recognized in the law [s of the states] as persons in the whole sense.

Doesn't that sound like once the unborn are recognized in state laws as "persons", then "legal abortion" must "collapse"? So why didn't it, after "personhood" declarations were adopted into the laws of Missouri, Nebraska, and Louisiana?

Perhaps because there is an inertia in the law world which many people don't understand.

If God Himself came down, appeared to the whole world, and showed us the full conscious, thinking, feeling, learning, processing, reasoning, choosing souls embedded in every human baby from conception, and translated for us the heavenly language in which souls cry out to God as their bodies are torn apart by infanticidists, that wouldn't automatically end Roe's reign of terror.

Courts don't have the authority to instantly react to new evidence with new rulings that repeal old rulings or laws. A case would need to come before the courts, based on that evidence, which would specifically challenge the Court to reverse Roe. During the lapse of time between the new ground for reversing Roe, and the emergence of such a case, citizens think "hmmm. Abortion remains legal, *despite* this new evidence. I guess this evidence just wasn't strong enough, after all!" Citizens, not understanding, give up hope prematurely, and God's enemies in authority become prematurely confident and cynical of the most irrefutable evidence. Citizens, seeing seeing this reinvigorated determination of authorities to keep evidence "irrelevant", and trusting their authorities to be wise, conclude the 50 million corpses of the infanticidists must be irrelevant, after all, and think it must be the children blurting out "the emperor has no morals" who are the authors of anarchy.

A case that should have ended legal abortion came up in 1989. Webster v. Reproductive Health Services, 492 US 490. Under Governor Ashcroft, the Missouri legislature had strongly, boisterously declared the personhood of the unborn.

> Mo. Rev. Stat. 1.205.1: ...the life of each human being begins at conception...unborn children have protectable interests in life, health, and well-being [and all Missouri laws] shall be interpreted and construed to acknowledge on behalf of the unborn child at every stage of development, all the rights, privileges, and immunities available to other persons, citizens, and residents of this state, to the extent permitted by the Constitution and U.S. Supreme Court rulings.

Oops, did you see that last clause? To that point, the Missouri legislature was going to war! But in

that clause, they decided to shoot with blanks, lest they actually hurt anybody. The legislature, and the Attorney General before the Supreme Court, essentially said "let us keep our cute little law, and we won't bother you". The Missouri legislature, and attorney general, lacked the courage to finish the job by saying "with this finding of fact, *Roe's* condition for the 'collapse' of legal abortion has been met, so we will now begin criminalizing abortion."

Since Missouri didn't ask the Court to recognize the end of legal abortion, and the Court has no jurisdiction to resolve issues not raised, the Court couldn't have, even had it wanted, reversed *Roe*.

Actually that was only the sentiment of the majority in Webster. Justice Scalia, in a dissent, disagrees with me. He said Roe itself was not decided "in as narrow a manner as possible", so for the Court to so decide, in order not to disturb Roe, "perverse", and "is not required by precedent and not justified by policy."

> (From the Syllabus, which is the Court's summary of the ruling:) JUSTICE SCALIA would reconsider and explicitly overrule *Roe v. Wade.* Avoiding the *Roe* question by deciding this case in as narrow a manner as possible is not required by precedent and not justified by policy. To do so is needlessly to prolong this Court's involvement in a field where the answers to the central questions are political, rather than juridical, and thus to make the Court the object of the sort of organized pressure that political institutions in a democracy ought to receive. It is particularly perverse to decide this case as narrowly as possible in order to avoid reading the inexpressibly "broader than was required by the precise facts" structure established by *Roe v. Wade.*

The Preamble of Missouri's law is where the personhood of the unborn was declared. The majority opinion said it had no meaning by itself, but was just an opinion without an application to any restriction on abortion. The Court said that the Preamble might in the future be "used to interpret other state statutes" in "some concrete way" way that contradicts Roe, but before that day "it is inappropriate for federal courts to address its meaning."

> This Court need not pass on the constitutionality of the Missouri statute's preamble. In invalidating the preamble, the Court of Appeals misconceived the meaning of the dictum in *Akron v. Akron Center for Reproductive Health, Inc.,* **462 U.S. 416**, 444, that "a State may not adopt one theory of when life begins to justify its regulation of abortions." **[p491]** That statement means only that a State could not "justify" any abortion regulation otherwise invalid under *Roe v. Wade* on the ground that it embodied the State's view about when life begins. The preamble does not, by its terms, regulate abortions or any other aspect of appellees' medical practice, ….The extent to which the preamble's language might be used to interpret other state statutes or regulations is something that only the state courts can definitively decide, and, *until those courts have applied the preamble to restrict appellees' activities in some concrete way, it is inappropriate for federal courts to address its meaning.*

In other words, no one had yet suggested that the preamble's declaration of the personhood of the unborn undermined Roe in the slightest, so that issue was not before the Court yet.

The Chief Justice, Justice White, and Justice Kennedy added that Missouri's law further avoided any challenge to Roe by limiting its interest (outside the Preamble) to babies that had reached "viability":

> This case affords no occasion to disturb *Roe*'s holding that a Texas statute which criminalized *all* nontherapeutic abortions unconstitutionally infringed the right to an abortion derived from the Due Process Clause. *Roe* is distinguishable on its facts, since Missouri has determined that viability is the point at which its interest in potential human life must be safeguarded. P. 521.

Justice O'Conner agreed that Missouri's law avoided any challenge to Roe. She said the lower appeals court had treated it as a challenge, but it was wrong:

> the plurality [of the Court of Appeals] should therefore not have proceeded to reconsider *Roe v. Wade.* This Court refrains from deciding constitutional questions where there is no need to do so, and generally does not formulate a constitutional rule broader than the precise facts to which it is to be applied. ... the viability testing requirements do not conflict with any of the Court's abortion decisions. ...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.

In other words, a Personhood law that is not accompanied by a restriction of abortion as fundamental as if Roe had never existed, is not going to be treated by

the Supreme Court as a challenge to Roe. Meanwhile, if a lawyer tells you Webster ruled that a state personhood law has no power to "collapse" legal abortion, the appropriate answer is a funny look, with "Uh, did you read in Webster where they said they didn't need to rule on that issue? And did you know that even if they had, that would have been overturned by Casey v. Pennsylvania which withdrew Constitutional protection from abortion? And did you know Roe's 'collapse' by state laws is reinforced by federal laws in 2000 and 2004?"

Reagan's Proclamation

The fundamental contradiction of "legal abortion" was expressed by President Ronald Reagan in a 1988 proclamation, or "Public Law", which should alone have been enough to "collapse" legal infanticide:

> We are told that we may not interfere with abortion. We are told that we may not 'impose our morality' on those who wish to allow or participate in the taking of the life of infants before birth: yet no one calls it 'imposing morality' to prohibit the taking of life after people are born. We are told as well that there exists a 'right' to end the lives of unborn children; yet no one can explain how such a right can exist in stark contradiction of each person's **fundamental right** to life.

Why didn't this alone end legal abortion? It satisfied the condition for the "collapse" of legal abortion given in *Roe v. Wade:*

> 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 [14th] Amendment.

In courtroom language, the "fundamental right" which Reagan asserted means a "constitutional right". Since no legal authority in America has ever said the unborn do *not* have a Constitutional Right to Life, or are *not* "persons", Reagan's uncontradicted statement had legal force and should have been enough, legally, to end legal abortion.

But Reagan said much more, and his statement was even addressed in the Missouri Supreme Court in 1989, as follows:

> "'all medical and scientific evidence increasingly affirms that children before birth share all the basic attributes of human personality -- that they in fact are persons...' and the President has proclaimed the 'unalienable personhood of every American, from the moment of conception until natural death'. President Reagan also affirmed the compelling Interest of the several states to protect the life of each person before birth, and the unalienable right to life is found not only in the Declaration of Independence but also In the Constitution that every President is sworn to preserve. protect and defend. Both the Fifth and Fourteenth Amendments guarantee that no person shall be deprived of life, liberty, due process of law.... In the 15 years since the Supreme Court's decision in Roe v. Wade, however, America's unborn have been denied their right to life." (State v. O'brien, 84 S.W.2d 187, 189 Mo. App. 1989, quoting Public law 5761 of January 14, 1988, Federal Register Vol. 53, #ll)

In other words, Reagan stated that as a matter of fact, the unborn are human beings, which Roe v. Wade here equates with "persons":

> 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.' *Roe v. Wade,* 410 U.S. 113 (1973)

The establishment of personhood of the unborn at the federal level does not eliminate the need for personhood initiatives at the state level, but only makes the task easier.

State personhood initiatives are crucial because even though legal infanticide has already legally "collapsed", courts and lawmakers are, without refuting that fact, ignoring it. Luke 18:2-8 explains that it is not enough to have the law on your side. You must wear down those responsible for enforcing the law. Jesus is explaining that you have to "get involved in politics". State personhood initiatives are a way of

demonstrating to courts and lawmakers the growing number of voters who are aware that they are ignoring the law. The more they see voters aware of how they are perverting justice, the greater the pressure on them to do justice, Jesus' reasoning explains.

Our Mission

That doesn't mean this law has no firepower left for another court battle. The Missouri law limits Missouri's support for the unborn to what the Supreme Court permits, but the Supreme Court ruling, *Roe v. Wade*, "permits" this personhood definition to legally "collapse" *Roe* and "legal abortion", through its "collapse clause".

In addition, the *O'Brien* decision was outdated by the 1992 *Pennsylvania v. Casey* case, which withdrew constitutional protection from infanticide, according to a very compelling explanation by Justice Scalia in 2003, *Lawrence v. Texas* 539 U.S. 558 (2003)

This time, if Missouri lawmakers criminalize abortion and when challenged in court specifically ask the Court to recognize the "collapse" of Roe, through its own state law and the federal law, Laci and Conner's Law, that will be more pressure than the Court has ever felt to finally reconcile its deadly decisions.

Yet today Missouri has a new Personhood initiative Why? Wasn't old Personhood law enough to bring an end to legal abortion? If the old law isn't enough to motivate lawmakers, why will a new law do it? If the child doesn't obey when the mother says "1...2...", what will make the child obey when the mother says "...3!"?

Not that the new personhood language serves little purpose. It updates the law to cover cloning and contraception, and strengthens it to make it harder, it is hoped, for lawmakers to ignore. But we need to recognize that the only reason lawmakers did not act before was mental inertia, the legislative equivalent of "stare decisis". We should not expect it to go away as soon as the new wording is enacted.

As difficult as it is to pass a stronger law, we need to be prepared to take a stronger stand than just that.

We need a strategy to stop the procession.

A shocking, outrageous stand.

We need a more compelling motivation for the class bully to take his own seat, than merely to inform him that he is in the wrong seat.

That strategy would be to publicly explain the outrageous, shocking inconsistency in law that Roe never asserted jurisdiction over individuals, to stop them from protecting the unborn from infanticidists. Therefore, the longer lawmakers hesitate to criminalize infanticide, the more legitimate will be a defense for individuals who interrupt it.

I wish we could say, never again by shooting! But only by sitting. It was never my goal to unlock the Voluntary Manslaughter defense for future infanticidist shooters, while leaving the Necessity Defense locked away from the reach of future sitters in front of infanticidal doors.

That was the goal of public defenders Mark Rudy and Steve Osburn, and Judge Wilbert toyed with the goal. Rudy was asked about that shocking, outrageous precedent in an *In Session* interview aired the Monday after the trial. He said it was not his job to consider the broader impact of what he does. His job is to spring his client. (I think his word choice was more sophisticated.)

Apparently it was also God's goal.

Certainly a precedent partially justifying outrageous, shocking shooters will speedily motivate lawmakers to understand the problem and create a less violent solution, even if that solution is to abort their beloved legal infanticide. Were the precedent to merely justify sitters, there would be far less sense of urgency, since sitting would be no more violent than a law criminalizing infanticide, and it might seem more politically expedient to let others take the heat for ending their beloved legal infanticide. Besides, with so many Christians so quick to condemn any violation of law, maybe not that many Christians will show up. And maybe the precedent will be reversed with the first wave of sitters.

The irony is that the sooner prolifers get on board and pull down the last standing splinters of the already "collapsed" "legal abortion", the sooner the shooting will stop forever. And not just the violence of seven slain infanticidists, but the violence of seven times seven million victims of American infanticidists, not counting those slain by "birth control" and "research".

Continuing to condemn Scott Roeder's shooting will diminish the pressure on lawmakers to criminalize abortion, and actually perpetuate the shootings at the same rate, at a minimum; although probably at an increased rate, as a result of the precedents set by Mark Rudy and Judge Wilbert.

This is not a call to violence, but a call to end it.

Scott Roeder's action was truly outrageous and shocking. This is a call to end truly outrageous and shocking infanticide, quickly enough that outrageous and shocking action to stop it will never again be necessary.