**Any proposed future personhood language in state or federal law is**

# No Greener Light

## than the legal green light already shining since 2004, for State Lawmakers to Criminalize Abortion as if *Roe* Never Existed

What prolifers hope to achieve through a Life At Conception Act, or even by a Constitutional Amendment, has already been achieved by a 2004 federal law.

## In 2004, Federal law said what *Roe v. Wade* said must be said **for legal abortion to end.** The same "personhood statement" which prolifers are trying to get in state and federal laws is already in a law with authority over all courts. State legislatures already have a legal green light to outlaw abortion.

By Dave Leach, November 25, Thanksgiving, 2010. (Revised as of 4/20/2013)

*40th Anniversary of legal abortion - 9th Anniversary of its legal "collapse"*

Legal recognition of the fact that all unborn babies are human beings, in a 2004 federal law, triggered the "collapse" of abortion's legality, leaving states legally free to outlaw abortion. The only reason courts haven't acknowledged this yet is that prolifers still haven't brought them a case that makes them "squarely address" the law and resulting "collapse". A challenge to a state law criminalizing abortion, (such as in North Dakota, Arkansas, or Kansas), and citing the 2004 law, could be such a case. If the state's Attorney General doesn't raise the argument, it could be raised through Amicus Briefs when it is appealed, *IF* it is appealed.

If some future law includes a "Finding of Fact" that explains legal abortion's "collapse" by the 2004 law, then (1) other prolife lawmakers besides the one who introduced it will take the bill seriously, knowing it has a viable legal strategy for surviving a challenge, (2) public discussion can build enough to expose, humiliate, and remove chamber dictators and lawless judges, and (3) the Attorney General will argue the 2004 "collapse" when the bill is challenged,

We don't need Roe's overturn, since Roe itself authorizes legal abortion's "collapse": "If this suggestion of personhood [of unborn babies] is established, the...case [for legalizing abortion], of course, collapses, for the fetus' right to life is then guaranteed specifically by the [14th] Amendment." Roe also equated "personhood" with "recognizably human". ["[They considered] the point at which the embryo or fetus became 'formed' or recognizably human, or in terms of when a 'person' came into being...."]

So when federal law 18 U.S.C. § 1841(d) legally recognized all unborn babies as human – as "members of the species homo sapiens", federal law "established" the "personhood" of unborn babies. Federal law said what Roe said must be said for legal abortion to end.

While the impact of state personhood laws on Roe is in doubt, because of confusion about Webster and because state personhood positions conflict, SCOTUS accepts the authority of federal law over itself, until such time as it rules the law unconstutional. But this law, and state laws like it, have been unanimously declared constitutional by courts dozens of times.

The 2004 law doesn't "permit [authorize] prosecution" for abortion. But that doesn't, and can't, prevent states from enacting their own criminal laws authorizing prosecution for abortion.

# FAQ'S (Frequently Asked Questions)

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## 1. Why do fund raising letters still say Roe's "collapse" won't be triggered until we get another "personhood" law?

Answer summary: Ever since a few Republican prolifers and prolife organizations promised Democrats, during congressional debate over 18 U.S.C. § 1841(d), that passage wouldn't threaten abortion's legality, that promise has been honored. But analysis of what they passed, compared with future proposals which are promised to trigger Roe's "collapse", reveals no significant difference.

Fundraising letters sent in 2010 by *Iowa* Congressman Steve King, Mississippi U.S. Senator Roger Wicker, Senator Rand Paul as recently as April 30, 2012, and surely others promise that if the Life At Conception Act passes, that will create a legal green light for state legislatures to criminalize abortion as if *Roe v. Wade* never existed.

This study compares the proposed future law with the 2004 Unborn Victims of Violence Act, to show that both are equally green lights for ending legal infanticide.

This is not an argument that the Life At Conception Act should be abandoned as unnecessary. The more often this legal green light can be erected, the better. This is an argument that there is no reason to wait for the second green light to be erected in another few years, before proceeding through the first.

It is also a warning. If there is not yet the courage to proceed through the first green light, where will courage arise to proceed through the third or fourth? The second even shares an alleged legal difficulty with the first, equally enabling cowards with their feet firmly on the brakes.

**The Fundraising Promise.**

The legal reasoning that would "collapse" *abortion's legality* through these laws is explained in these excerpts from Senator Wicker's April 12, 2010 letter: (This same verbiage was in the fundraising letters of Congressman Steve King and Senator Rand Paul):

> Now the time to grovel before the Supreme Court is over.
>
> Working from what the Supreme Court ruled in Roe v. Wade, pro-life lawmakers can pass a Life at Conception Act and end abortion using the Constitution instead of amending it.
>
> ...A Life at Conception Act declares unborn children "persons" as defined by the 14th

Amendment to the Constitution, entitled to legal protection.

This is the one thing the Supreme Court admitted in Roe v. Wade that would cause the case for legal abortion to "collapse."

...never once did the Supreme Court declare abortion itself to be a constitutional right.

Instead the Supreme Court said:

"We need not resolve the difficult question of when life begins...the judiciary at this point in the development of man's knowledge is not in a position to speculate as to the answer."

Then the High Court made a key admission:

"If this suggestion of personhood is established, the appellant's case [i.e., the case brought by "Roe" who sought an abortion], of course, collapses, for the fetus' right to life is then guaranteed specifically by the [14th] Amendment."

The fact is, the 14th Amendment couldn't be clearer:

"...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 law."

Furthermore, the 14th Amendment says:

"Congress shall have the power to enforce, by appropriate legislation, the provisions of this article."

That's exactly what a Life at Conception Act would do.

As is typical with fundraising letters, the letter didn't actually quote a single word from the Life at Conception Act. See #12 for the text. But the letter says *Roe's* "collapse" clause has a condition which is satisfied by the Life at Conception Act. *Roe* says that condition will be satisfied when "personhood is established" of a "fetus". Once the Act is passed, legal abortion "collapses".

(Senator Wicker's letter directed support to the National Pro-Life Alliance, and shared the same verbiage as the website of the National Pro-Life Alliance, so it appears Wicker merely gave the National Pro-Life Alliance permission to use his name. A note at the bottom of the page says "not printed or mailed at government expense." Nor is there the campaign disclaimer required for mailings paid for by campaign funds. Later I got a fundraising letter from Iowa Congressman Steve King with almost the same verbiage.)

**Both Laws Satisfy Roe's "Collapse" Conditions.**

**The 2004 law** defines all unborn babies as human beings:

> ...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.**

## 2. To trigger Roe's "collapse", doesn't a personhood law have to specify that unborn babies are "persons"? Can it be enough that federal law specifies they are humans, or "members of the species homo sapiens"?

Answer summary: *Roe itself* equates "persons" with "recognizably human", and the 2004 federal law *legally, officially "recognizes"* all unborn babies as "human".

"So what does that accomplish," you ask, "that 18 U.S.C. § 1841(d) legally recognizes all unborn babies as *human beings?* Roe doesn't dictate the 'collapse' of abortion's legality when the *humanity* of the unborn is established, but when the *personhood* of the unborn is established."

But "persons" and "humans" are equated in Roe:

> "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.' "

"Recognizably human" equals "person". 18 U.S.C. § 1841(d) *legally recognizes* all unborn babies as humans, and therefore, according to Roe, as "persons".

*Roe's* phrase "recognizably human" evokes memories of old science textbooks with doctored charts showing the "evolution" of a "fetus" from a fish to a human being. Harry Blackmun, author of Roe, probably believed those charts, and probably didn't see anything "recognizably human" about a "fetus" who had not yet grown a full head of hair or been fitted for a judicial robe.

In fact, *Roe* identifies the charts that confused Blackmun:

> She carries an embryo and, later, a fetus, if one accepts the medical definitions of the developing young in the human uterus. See Dorland's Illustrated Medical Dictionary 478-479, 547 (24th ed. 1965).

But *Roe* does not leave the determination of the humanity of the unborn to Harry Blackmun's ability to "recognize" it. Blackman specifically admitted that others besides the Supreme Court are so much more qualified than the Court to "establish" that recognition, that the Court must defer to their judgment. *Roe* said that is one area where even preachers know more than Supreme Court justices*:*

> 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 [human] 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.

To use courtroom language, *Roe* treated "when [human] life begins" as a *fact* question. Were it a question of *law*, the justices would have deferred to no one, they being the world's experts on questions of American *law.*

But this *fact,* that all unborn babies are humans/persons, had to be *legally recognized, or established.* There are three kinds of authorities entrusted by courts to tell them about facts: juries (called "triers of facts"), expert witnesses, and legislatures (especially in their resolutions, or in their "findings of facts" that precede some laws).

In the case of 18 U.S.C. § 1841(d), Congress created a federal law that states, legally recognizes, and legally establishes a fact. Even the Supreme Court has to conform its rulings to federal laws, up until such time as it overturns them. The Court has never overturned this one, or the dozens of similar laws in several states, but rather, courts have affirmed these laws.

(The Court can't rule by the law of one state on a matter that affects all states, but federal law has authority for all states.)

The 2004 law legally recognized the fact that all unborn babies are human beings, whom *Roe* equates with "persons". And although Harry Blackmun had trouble "recognizing" that an embryo is human, Congress and the President were very clear, in enacting the law, about the point where they were able to recognize when an unborn child is human: "at all stages of development".

In short, *Roe* said that once the humanity – that is, the personhood – of an unborn baby is established, then "of course" (Roe said, meaning it was so obvious that even a judge would have to recognize it), *legal abortion* must "collapse".

The 2004 law legally recognizes – establishes – the humanity, and thus the personhood, of every unborn baby of a human.

Legal abortion legally "collapsed" April 1, 2004, by authority of Roe v. Wade.

No other definition in Federal law offers an alternative definition, and indeed a contradictory definition elsewhere would be absurd because if unborn babies are humans while you are reading this law they will not be changed into fish by your reading another section of law.

## 3. Before prolife lawmakers pass laws that fundamentally challenge Roe, shouldn't they enact additional "personhood" laws in order to better our odds in court?

Answer summary: The clearer we can make our laws, the better. But 18 U.S.C. § 1841(d) is already a green enough light for states to outlaw abortion, that they don't need to wait several more years full of several million more corpses for a *greener* light, before entering the intersection.

One other nice touch in the proposed Life At Conception Act is spelling out the legal obligation of states, imposed by the 14th Amendment, to protect unborn baby humans. It can't hurt to remind everybody of this.

> SEC. 2. RIGHT TO LIFE. To implement equal protection for the right to life of each born and preborn human person, and pursuant to the duty and authority of the Congress, including Congress' power under article I, section 8, to make necessary and proper laws, and Congress' power under section 5 of the 14th article of amendment to the Constitution of the United States, the Congress hereby declares that the right to life guaranteed by the Constitution is vested in each human being.

That, plus the definition of human as applying from fertilization, (see above), invokes 14th Amendment protection for the unborn.

While this is the stuff of a great speech, is it a significant legal step forward? Is its green light significantly greener?

Roe's "collapse" clause already concedes 14th Amendment protection for unborn humans, once federal law established that the unborn are humans:

> *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. - *Roe v. Wade,* 1973

The *only* thing "greener" about the future light I can figure out is that at least so far, prolife leaders and Congressmen haven't started insisting the Life at Conception Act won't undermine abortion. (More about that issue later.) If this Legal Green Light is significantly greener, legally, than the previous light, I can't figure out where, other than adding protection to the cloned who are not in a

womb.

18 U.S.C. § 1841(d) only protects unborn babies "in utero" – in a human mother's womb. The proposed Life at Conception Act extends protection to cloned babies living in test tubes.

> "*The terms `human person' and `human being' include each and every member of the species homo sapiens at all stages of life, including the moment of fertilization, cloning, or other moment at which an individual member of the human species comes into being.*

This is an important thing to add, but state lawmakers should not wait for that to happen, to outlaw abortion. Establishing legal recognition of Roe's "collapse" will authorize state lawmakers to criminalize cloning without an additional federal act.

## 4. 18 U.S.C. §1841(c) lets moms and docs keep killing babies they are too paganized to love, leaving babies unprotected until they are born. How is that different than the historical laws with lower penalties for killing babies than for killing adults, which led Roe to conclude that "the unborn have never been recognized in the law as persons in the whole sense" so why not kill them? Isn't that why we need future personhood laws that protect all human life equally before we are ready for court?

Answer summary: Future proposed personhood laws don't protect unborn babies as much as adults, either, nor can they. But that is not a legal problem. The fact that something is legal doesn't make it harmless. Laws routinely protect people unevenly whom lawmakers wish they could protect evenly. There are several common reasons. Laws need to take **culpability** into account; for example, mothers are less culpable than abortionists. Sometimes unavailability of **evidence** makes protection from a crime impractical; for example, a law against killing a fertilized egg by contraception would be impractical because no human can prove there was ever a fertilized egg that was killed. Sometimes new **technology** creates new evils which lawmakers can't catch up with for a few years; for example, cloning. Judges know that sometimes there just isn't enough **political support** to penalize every evil that judges and lawmakers would like to. No judge assumes, when lawmakers address an evil but haven't yet decided how to address the evil next to it, that persons harmed by the neighboring evil are regarded by lawmakers as less than "persons in the whole sense".

The 2004 law allows two groups of people to kill the unborn without penalty: abortionists, and mothers. Thus it does not protect the unborn as much as adults; thus it does not treat the unborn as "persons in the whole sense" according to Roe's reasoning.

This is both a legal problem, and a Biblical problem. But there are solutions. This section will address the legal problem. Sections 6 and 12 address the Biblical problem.

Here is the section of the 2004 law which preserves the license to kill for mothers and doctors:

> 18 U.S.C. §1841 **(c)** Nothing in this section shall be construed to permit the prosecution— **(1)** of any person for conduct relating to an abortion for which the consent of the pregnant woman... has been obtained... [or] **(3)** of any woman with respect to her unborn child."

To whatever extent this is a problem, it is a problem uncorrected by the "Life at Conception" proposal, which says:

> *"However, nothing in this Act shall be construed to authorize the prosecution of any woman for the death of her unborn child."*

Indeed, there is as much popular support for giving drivers licenses to dogs, as there is for giving the death penalty to mothers who abort. But that is an obstacle to legal recognition of *Roe's* "collapse" only because of *Roe's* confusion which we should be able to clear up. Once its "collapse" has been officially recognized, states will be free to enact whatever penalties prolifers can persuade lawmakers to enact.

The legal obstacle created by these exceptions is that they seem to protect babies less than adults, which is how historical laws seemed to the *Roe* majority. Penalties in state laws for killing the unborn were historically lighter than penalties for killing adults, proving to the *Roe* justices that American laws never treated the unborn as "persons in the whole sense", meriting the "whole" right to life. Or any of it. *Roe v. Wade* had made this supposed historical doubt about the humanity/personhood of the unborn a major justification for abortion. Won't today's justices look at today's similar personhood laws and draw the same conclusion?

> *(Roe:)* In areas other than criminal abortion, the law has been reluctant to endorse any theory that life, as we recognize it, begins before live birth or to accord legal rights to the unborn except in narrowly defined situations and except when the rights are contingent upon live birth. For example, the traditional rule of tort [lawsuits] law denied recovery for prenatal injuries even though the child was born alive. 63 That rule has been changed in almost every jurisdiction. In most States, recovery is said to be permitted only if the fetus was viable, or at least quick, when the injuries were sustained, though few courts have squarely so held. 64 In a recent development, generally opposed by the commentators, 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. Similarly, unborn children have been recognized as acquiring rights or interests by way of inheritance or other devolution of property, and have been represented by guardians ad litem. 66 Perfection of the interests involved, again, has generally been contingent upon live birth. In short, the unborn have never been recognized in the law as persons in the whole sense.

In other words, under 18 U.S.C. §1841(d), were a 5-year-old child murdered by his mother, or by an abortionist, the killer would be prosecuted, but not if the child were murdered at 5 months in the womb. Thus the 5-month-old unborn child is not protected equally by the law, and thus by *Roe's* reasoning is not a "person in the whole sense", even under 18 U.S.C. §1841(d).

Although this is a legal issue, it is easily answered. Roe's "persons in the whole sense" theory was reasoned in ignorance of very good practical, legal, and Biblical reasons for penalizing mothers, if at all, less than abortionists, even though the lives of the unborn are just as sacred as the lives of adults.

In fact confusion about this can only exist while forgetting the natural limits of laws. Laws routinely protect people unevenly whom lawmakers meant to protect evenly. Every judge knows that.

**Culpability.** Sometimes there is a difference in culpability; for example, abortionists are completely culpable, while many mothers kill only under severe duress. Every judge knows that without culpability, there can be no guilt.

**Prosecution strategy:** Sometimes there is a difference in prosecution strategy; for example, one historical reason for light sentences for mothers, overlooked in *Roe,* was to not frighten them away from testifying against their abortionists. Sometimes a minor criminal is set free in return for testifying against a major criminal, even though that denies justice to the victims of the minor criminal. Judges arrange schemes like that all the time.

**Political support:** Sometimes there is quite honestly not enough popular support for prosecuting a crime because "everybody does it". The fact that prohibition was repealed did not change the fact that drink is often more deadly than drugs today which are still criminalized. Are sodomy, adultery, and breaking up a marriage, which were crimes 60 years ago, less harmful than, say, shoplifting or passing a $1,000 rubber check? The lesson of the woman caught in adultery, combined with Matthew 7:1-5, is not that everybody sins so therefore no one can be a policeman, judge, jailer, juror, or lawmaker, but rather Jesus taught what we call "jury nullification": humans are not authorized to judge others for doing the exact same things they themselves do. (See Bible analysis at http://www.examiner.com/article/the-woman-caught-adultery-how-u-s-law-follows-jesus-example.) As revival sweeps across the land, penalties can change. Meanwhile judges are painfully aware of the limits of legislatures in criminalizing all harms evenly. Judges know that holes in our laws do not make those left unprotected not quite "persons in the whole sense", but if anything, the doubt is whether we have "legislators in the whole sense", or who have common sense.

**Evidence.** Some very serious crimes are not seriously prosecuted only because it is very difficult for humans to document them. For example, embezzlement is more destructive than shoplifting, but it is harder to detect, so laws are written differently for them to make prosecution practical. A future example, we hope: when an adult is murdered, at least we can know there used to be a living adult. But when contraception murders, we often can't document whether there was ever a fertilized egg. That is an example of where it would make no sense to prosecute for murder which would probably require a death certificate which cannot exist; it would make more sense to simply criminalize the sales of contraceptives. Not because a human being is not fully human "at all stages of development", but because human prosecutors can only prosecute what they can prove. Judges understand that inability to gather evidence in some situations does not mean the humans in those situations are not "persons in the whole sense"! Well, at least they should.

**Technology.** The crime of wiretapping could not exist before there were wires. Auto insurance could not be mandated before there were autos. Legislatures require a few years to catch up to a newly created need. No judge thinks the first drivers were not "persons in the whole sense" until auto insurance was required. Cloning, and disposing or experimenting on unwanted clones, is so new that even personhood initiatives are still catching up.

**Jurisdiction.** The scope of all laws is limited to the circumstances in which their provisions make sense. 18 U.S.C. §1841(d) limited its scope to situations where a violent man attacks a mother and her unborn baby. The fact that the law's jurisdiction stops short of prosecuting a mother is mostly because of political conditions, but also partly, possibly, because uncertainty about culpability calls for a future law tailored to address that difference. Conversely, the obvious culpability of an abortionist, and the evidence of criminal history in just the fact of his practice, calls for a future law tailored to factor in those differences. Thus the fact that a law limits its jurisdiction to circumstances where its provisions make sense, leaving for a future legislature to cover adjacent circumstances, is not taken by any judge as evidence that persons in yet-to-be-covered circumstances will not be "persons in the whole sense" until a legislature covers them.

## The failure of laws to equally protect all human beings does not

prove that the least protected groups are not fully human, or that any lawmaker thought so!

The following argument is excerpted from www.Saltshaker.US/SLIC/Brief4Roeder.pdf, pages 20-22.

viii. HUMANITY AFFIRMED DESPITE DISPARATE TREATMENT

It may be objected that Congressional withholding of protection [in 18 U.S.C. §1841(d)] from the unborn "human" children whose mothers arrange for their killing mirrors the kind of difference between legal treatment of born and unborn babies from which *Roe v. Wade* presumed laws historically treat only born babies as "persons in the whole sense".

The most obvious difference [between 18 U.S.C. §1841(d) and historical laws] is that only Laci's Law [the popular name for 18 U.S.C. §1841(d)] explicitly defines an unborn baby as "a member of the species Homo Sapiens, at any stage of development, who is carried in the womb."

Federal law could not more clearly acknowledge that is a true fact. Yet if it is, then where this unborn group of human beings is unconstitutionally deprived of full constitutional rights, it is the lack of equal protection which courts need to adjust, not judicial notice of the facts, if we do not want utter legal anarchy.

Even among born human U.S. citizens, whose full Constitutional Rights no one has ever questioned, and where every effort is made to balance individual rights against national interests in difficult situations, there are many examples of imprecisely equal protection of all.

The difference in treatment, then, requires some other explanation, than that loved babies are human while unloved babies are tumors. There are many reasons laws treat equally deserving citizens differently.

Sometimes the difference reflects the realities of the limitations of government in recognizing when citizens equally deserve rights. For example, a law student one week before taking his bar exam may be equally qualified with the lawyer who took it a week ago, but Courts are unable to recognize their equality until students actually take it and pass it. Similarly, unborn babies before and after viability are equally "persons" and "humans" according to current federal law, but the justices of *Roe v. Wade* admitted they were "unable to speculate" whether that was the case.

Sometimes the difference is because of the difference in how criminal intent must be established. For example, no one says laws treat auto accident fatalities as less human than gunfight fatalities because drivers who kill with their cars are not penalized as greatly! The difference is one of intent, which is and should be an element of First Degree Murder. Similarly, *Roe* misunderstood the point of Exodus 21:22 when *Roe* (in a footnote) gave the passage as a possible reason for treating unborn babies as not fully human. The verse says when a pregnant woman finds herself in the middle of a fight between two men, and gets hit, causing her to go into labor, then if the child is unharmed, a jury shall set damages. This does not suggest the baby is less than human [since the penalty for murdering an adult was execution]; but only a jury can hear witnesses to establish how deliberate the punch to the womb appeared.

Sometimes the difference has nothing to do with merit, but with political reality. It would be absurd to conclude from repeal of prohibition, while marijuana criminalization increased, that drinking is 'not legally recognizable as a harm'! Or even that it is less harmful than marijuana! The disparity simply reflects political reality, and nothing else. The newspaper headlines and Congressional debate about Laci's law proved beyond any

reasonable doubt that the disparity of treatment of loved unborn babies, versus unloved unborn babies, had nothing to do with a finding of law that not being loved makes you less than human, and everything to do with the pro-death political machine.

To imagine any deeper significance in Laci's Law's disparate treatment would quickly lead to absurdity. To imagine the disparity was Congress' choice, as opposed to the result of limitations beyond its control, would place Congress in a patently false, even absurd, and profoundly immoral theoretical position, where, to maintain any semblance of consistency when trying to explain the statute, it *must* concede that this statute implies that the right to life of an innocent human being depends purely on the will of its mother. Congress would have to posit that the slaying of an unborn human child is a non-harm under United States law, provided solely that his mother wants him dead.

Were this a correct interpretation of Laci's Law, then, given its explicit equation of the humanity of the unborn with that of the born, mothers of older children who want them dead have a legal, if not Constitutional right to kill them.

Should this Court remain tempted to discount Laci's Law's establishment of the personhood of the unborn because of its 'ambiguity' or 'inconsistency', let the Court ponder what will happen to the Constitutional Rights of all if the discovery that not all human beings are equally protected proves they are not equally human, which in turn justifies depriving the less protected of any rights at all, including even the Right to Life!

To interpret the facial contradiction between the two relevant parts of §1841 as "ambiguities" is to accuse Congress either of patent absurdity or monstrous immorality. This Court should construe the statute to intend, minimally, that, even if the killing of an unborn child is tolerated when the mother - but no one else - wishes to kill him, nonetheless, the overwhelmingly more important fact is that Congress still expressly concedes that soon-to-be-aborted children are still just that - unborn children and human beings. Congress concedes this by not having written soon-to-be-aborted children out of its definition of 'unborn child'. From this, full 14th Amendment rights may be inferred by a reasonable person.

You can see that this argument could not be made in 1973; indeed, not until 2004. So criminalization of abortion through legal recognition of *Roe's* "collapse" doesn't even require reversal of the "persons in the whole sense" doctrine in the legal context available in 1973. Thus it doesn't require justices to "change their minds", or admit they were wrong. New laws create new legal contexts, which require adjustments in rulings, without bothering any judge's self esteem. These arguments merely keep the "persons in the whole sense" doctrine from surviving the federal definition in 2004 of all unborn babies of humans as humans.

**"Persons in the whole sense": where it leads.** As I said, questions 6 and 12 will address the ethical dimension of *Roe's* "persons in the whole sense" reasoning. Here I want to pass on two warnings about running too far away from *Roe's* flawed reasoning. First, the issue has tragically divided prolifers. Second, being too absolute about treating the unborn as "persons in the whole sense" will take you farther than 99% of prolifers are willing to go. Even if you are willing to go there, it is not legally necessary to make a state restriction court-proof, and it will definitely spark division between you and other prolifers which will impede *the goal of ending all legal abortions* through a case forcing courts to address *Roe's* "collapse".

Do you believe unborn babies are "persons in the whole sense"?

Prolifers are split almost down the middle over how far to take this reasoning. There are "personhood" movements in many states, to get state laws to declare that every unborn baby is a "human being" and a "person", but sometimes they are actively opposed (not just ignored) by large prolife groups. Clark Forsythe, of AUL, Americans United for Life, considers personhood movements a

distraction from the core prolife work of making tiny incremental advances in the courts while waiting for a prolife majority in the Supreme Court.

It is very important to "personhood" prolifers that the legislation they sponsor make no exceptions. Their bills allow abortion only to save "the life of the mother". (The reasoning for that exception is that it may be heroic to give your life for another, and mothers are typically our greatest heroes, we can't jail people for not being a hero.) Not all prolifers accept even that exception. They think even that undermines the position that all unborn babies are "persons", thus validating Roe's logic, legally sowing the seeds of the personhood law's own overturning, as well as morally undermining reverence for life created in the Image of God.

So what do you think? If you believe the unborn are humans - persons, (Roe equated "recognizably human" with "person"), do you support protecting their right to life just as much as if they were adults?

In *every* situation?

Now be careful: there is a trap in this truth.

A cost, to state it. As you stand before God, Who is watching along with the Supreme Court and a few News Reporters from Hell, to see whether you regard unborn babies as "persons in the whole sense", do you support protecting their right to life just as much as if they were adults? In *every* situation?

I said "yes", but not lightly. Somehow I knew the cost would be heavy, even though I did not very well understand why or how. I signed the petition that said "yes", with a sense of dread. It said **"We proclaim that whatever force is legitimate to defend the life of a born child is legitimate to defend the life of an unborn child."** (The "Defensive Action Statement" written by Paul Hill. The Defensive Action Statement was actually a statement about the legal elements of the Necessity Defense.) I intuitively sensed that my shot at a boring, respectable, socially honorable life was kaput. Although I had no idea it would propel me into the national spotlight. I wanted a way out of signing. But as Jesus in the Garden submitted to "not my will", I could not deny the truth, and live with myself or with God. So I signed.

You see, that conviction, that unborn babies are human persons and ought to be protected as much as any adult, wouldn't take you all the way down to the bottom of polite society if you could confine it to what laws you want lawmakers to pass to put abortionists in jail.

But you can't confine that conviction there.

It will stick its politically incorrect nose into another area of law: the legal authority that individuals have under America's "Necessity Defense" laws to use force, lethal if necessary, to stop a murderer, which every abortionist is, if unborn babies are "persons in the whole sense".

It is barely possible that the quote above from the Defensive Action statement, alone, wouldn't have been clearly associated with support of Michael Griffin, the first man to shoot an abortionist, and therefore wouldn't have subjected each signer to such hostile media coverage. To make that connection explicit, Hill added two more sentences which didn't expand on the legal principle but only applied the above sentence to the ongoing court case at the time: **"We assert that if Michael Griffin did in fact kill George Tiller, his use of lethal force was justifiable provided it was carried out for the purpose of defending the lives of unborn children. Therefore, he ought to be acquitted of the charges against him."**

Do you see the problem? Do you understand the cost of saying, out in public, that unborn babies are "persons in the whole sense" *in every situation?* (My personal journey through this issue is continued in answer #13)

My point is not that it is not true. I have said publicly for 20 years that it is true. I have a string of very inaccurate, unkind news articles about me to prove it. I have learned that some accusations are so terrible that it nearly becomes irrelevant whether they are true.

Back then, the Necessity Defense with its "comparison of harms" elements was the only legal

hope of overturning *Roe*, so it seemed crucial to me to proclaim its validity. But today, the cleanest way to overturn *Roe* should be a challenge to a state law criminalizing abortion as if Roe never existed, defended in court by the state's Attorney General. For that, no one needs to talk about the Necessity Defense's protection of the right of every human being to save other human beings from being murdered. The only reason for even talking about that would be to muster public education and maybe Amicus briefs in the Scott Roeder case, in which the legal arguments of this article are embedded, giving the case, I believe, a shot, however long, at overturning *Roe.*

(There are actually a number of "coincidences" about the case that indicate God may have plans for the case, such as the trial starting on the 37th Anniversary of *Roe* despite Judge Wilbert's mantra that "this case is not going to be about abortion; or the jury deciding Scott's guilt in 37 minutes, the figure given in several newspaper headlines. Several more "coincidences" are listed in my music video "If you love infanticide (you better learn Chinese)" on Youtube.)

Even though I would rather abortion come to an end through peaceful legislative action, just as President Lincoln wished such loss of life weren't the only way to end slavery, I am continuing to be involved in the legal arguments of Scott Roeder's case because that is the only door that has opened for these arguments. So far I have knocked on mainstream prolife doors for three years with the 18 USC 1841 argument, and no one has opened. Paul understands. In Acts 13:46, he told the Jews that he would rather the Gospel had been spread across the world by the Jews. But since they superglued that door shut, he turned to the Gentiles.

But if you don't want to wind up ending abortion by crossing that minefield, you might want to be careful about taking the "persons in the whole sense" reasoning as far as it will go. Even if you don't mind having your legs blown off, the "cost" you should "count" (Luke 14:26-43) should include the consequences of making more of an issue of this than necessary to force courts to legally recognize *Roe's* "collapse", which will end all legal abortions.

It is legally unnecessary for us to actually treat all unborn babies as "persons in the whole sense", to affirm emphatically that the Bible and American law since 2004 agree that unborn babies are fully human, as fully protected by the Constitution's "right to life" as we are, whether we, or past American laws, are courageous enough to treat them that way *in every situation* or not. Not all the carnage of all the Hitlers and Stalins and Mohammeds and Caesars and devils of all human history can change the fact that (1) every human being is created in the Image of God, (2) killers will be killed, Matthew 26:52, and (3) to the extent we do not protect the rights of others, others will not protect ours.

Fortunately for the unborn, it is not our own purity or courage upon which their rights stand, but the declarations of God, and fortunately, of our own nation's laws.

## 5. The 2004 law does not "permit [authorize] prosecution" for abortion. Doesn't that prevent *states* from enacting their *own* criminal laws authorizing prosecution for abortion?

**Answer summary: No judge thinks state legislatures have to ask some federal authority for permission to outlaw something. The fact that a federal law doesn't outlaw something on federal land doesn't keep states from passing laws that outlaw it in their state. The 2004 law triggers Roe's "collapse", which in turn triggers state responsibility, under the 14th Amendment, to protect unborn babies from abortionists.**

The 2004 law does not "permit [authorize] prosecution" for abortion. That does not, and cannot,

prevent states from enacting their own criminal laws authorizing prosecution for abortion.

The 2004 law does not "permit prosecution" of abortionists or mothers. In other words, abortionists and mothers are exempted from the specific penalties which the 2004 law imposes upon other murderers.

There are three reasons this can't mean states are prevented by this 2004 law from enacting their own criminal laws authorizing penalties against abortionists: (mothers are not going to be prosecuted in the foreseeable future, and even in the distant future their penalties should always be lighter as appropriate to their culpability):

(1) State legislatures don't need the "permission" of federal law to enact whatever criminal laws they please. Federal law doesn't have that kind of jurisdiction over states. Federal laws have jurisdiction over federal property, and actions that cross state lines, for which the ever-stretching "commerce clause" is invoked. But the 2004 law says nothing about the Commerce Clause or federal property, so it makes no pretense at jurisdiction over states. The only other way Congress asserts itself over states is by offering states back their citizens' own money on the condition they follow their latest law. But the 2004 law doesn't offer states any money. The reach of federal law, to impose criminal penalties over states, is so limited that 18 U.S.C. § 1841(a) applies this law's *penalties* only to a list of 68 federal criminal violations.

(However, section (d) doesn't list a penalty. It states a fact. And although states aren't subject to Congress' version of the facts, the U.S. Supreme Court is. *Roe v. Wade* assumed jurisdiction over states on the strength of its alleged ignorance whether unborn babies are humans/persons. So when Congress officially removed that ignorance, Congress removed *Roe's* prop for its usurped jurisdiction over states. The Supreme Court can't logically conform its rulings to state personhood laws on matters that affect all states, since state laws conflict. But the Supreme Court has to conform its rulings to federal laws, up until such time as a law is found unconstitutional. The opposite has occurred in this case: a number of state supreme courts have ruled that state versions of 18 U.S.C. § 1841 *are* constitutional, in the face of numerous constitutional challenges brought by accused murderers because *Roe* questions the humanity of the baby they killed. See chapter 7.)

> Congress has no jurisdiction over states, to prevent states from enacting criminal laws without Congress' "permission". But Congress has jurisdiction over the U.S. Supreme Court, which has to conform its rulings to federal laws, up until such time as it finds a law unconstitutional. Thus the penalties of 18 U.S.C. § 1841 have jurisdiction only over 68 federal violations. But its definition of all unborn babies as humans, being an uncontested statement of fact in federal law, has jurisdiction to end *Roe's* usurped jurisdiction over states.

(2) A statement of fact that a law does not constitute permission does not make the statement a prohibition. (ie. if your mother doesn't give you permission, that doesn't mean your father can't.)

(3) After the 2004 law "established" the humanity of the unborn, states became legally obligated by the 14th Amendment to criminalize abortion to give the unborn "equal protection of the laws". A federal law can't order states to disobey the Constitution.

Here's how Wikipedia overstated the legal importance of this "abortion exception", as of February, 2011: (under Laci's Law)

> The legislation was both hailed and vilified by various legal observers who interpreted the measure as a step toward granting legal personhood to human fetuses, even though the bill explicitly contained a provision excepting abortion, stating that the bill would not "be construed to permit the prosecution" "of any person for conduct relating to an abortion for

> which the consent of the pregnant woman, or a person authorized by law to act on her behalf", "of any person for any medical treatment of the pregnant woman or her unborn child" or "of any woman with respect to her unborn child."

To summarize, Wikipedia assumes that because this law does not "permit...prosecution... relating to an abortion", it cannot "grant...legal personhood to human fetuses".

I added the following to the Wikipedia entry for "Unborn Victims of Violence" on April 26, 2012. As of April 19, 2013, this addition is still there. I consider this somewhat of a test of its validity, since the article's history shows that 13 "persons" and one robot had modified the page or the associated talk page since my addition, and none of them apparently saw a problem with what I added. Not only that, but there is a "WikiProject Law" that lists this as a page of some importance, though of "low importance".

> However, the reticence of a federal law to authorize federal prosecution of a particular act committed under federal jurisdiction does not prevent states from passing their own laws against the act committed under their jurisdiction. Meanwhile the definition of all unborn babies as "members of the species homo sapiens" in section (d) says essentially what proposed "human life amendments" say. Sponsors of such proposals say such legal language will trigger the "collapse" clause in Roe v. Wade, by establishing what Roe said must be established for legal abortion to end. (footnote: to Roe quote) Several state supreme courts have ruled that sections (a) through (c) are not threatened by Roe, (see list below), but no court has addressed whether Roe can survive the triggering of its "collapse" clause by section (d).
>
> (Here is the Roe quote again, which I put in the footnote: 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.")

Wikipedia asks me to "briefly explain" any edit that I submit. I said: "I rescue the article from the previous paragraph's conflation of 18 USC § 1841's penalties in (a) with its finding of fact in (d). The fact allegedly and logically triggers Roe's "collapse" clause, and is unaffected by the 'penalties'section."

*Roe* equates "human" with "person". (See Chapter 2.) Once the "fetus" was legally recognized as "human", *Roe* demanded acceptance of the unborn baby as a "person". If we obey *Roe,* once the "personhood" of the unborn was established by clause (d) of the 2004 law, no reading or misreading of clause (c) had any power to order states not to criminalize abortion, because the 14th Amendment from that point *required* states to criminalize abortion in order to extend "equal protection of the laws" to the unborn. Not even the Supreme Court itself has such power to protect abortionists, according to *Roe*! This limit to Supreme Court authority is so obvious that Roe said "of course"!

Fortunately section (c) does not, on its face, order states to keep abortion legal. To read it that way is a sloppy reading not faithful to the plain grammar. If you get a building permit to install a fireplace, and the fine print says "this does not constitute permission to install a bathtub", that statement should not be taken as a prohibition against the homeowner going to the plumbing department for a separate permit to install a bathtub. By the same principle, the statement that section (c) is not

"permission" to prosecute abortionists is not a law against a state creating a state law that authorizes prosecutions of abortionists.

Congress doesn't have any jurisdiction over state legislatures anyway. Congress has to stretch the "commerce clause" just to create criminal penalties that exist side by side with state criminal laws, giving prosecutors the choice whether to prosecute in state or federal court. Congress can also create financial incentives with its borrowed money to entice states to pass certain laws in a certain way. Guided by the Supreme Court's "absurd result" test, we should choose an interpretation of clause (c) that is consistent with legal reality.

## 6. Shouldn't a law against abortion just say "the penalties for killing the unborn, from any point after fertilization, are the same as for killing an adult", without a pile of details with different penalties for contraception than for surgical abortion, for example, which treat the youngest unborn as less than "persons in the whole sense"?

Answer summary: Broad principles in law are toothless without enabling legislation. "Thou shalt not kill" is a simple principle that might not seem to require any "enabling legislation" to spell out its application in a variety of situations, but even Moses' laws include a variety of applications for the variety of situations. Prolifers need to discuss and agree upon the variety of penalties and legal mechanisms that will be required to enforce the various aspects of abortion. We have to grow beyond simplistic soundbites about purity and good intentions and achieve sensible, practical, ethical consensus. We need to be willing to study and address all the complexities which reality requires. Reality stubbornly refuses to become as simple as we demand. Matthew 25:14-30 calls us, not to pray that reality will halve its difficulty, but to double our capacity. Here is a list of several abortion-related situations prolifers need to be agreeing how to provide for in law once God opens up that door, that prolifers haven't been thinking about.

Even though God treated all human beings as "persons in the whole sense", He created different penalties for killing them, depending on whether it was deliberate or an accident, and varying with the ability of human courts to establish the facts. Today's abortion and contraception situation similarly requires what is called "enabling legislation" to take these circumstances into account to make prosecution possible, and penalties predictable.

The future Life At Conception Act's assurance that it doesn't "authorize prosecution" of mothers has no legal meaning, since it identifies no crimes or penalties. It makes no reference to abortion. It gives no reason to interpret its reach as any farther than probate court.

The 2004 law made sense, in saying in section (c) that the penalties of section (b) did not apply to abortionists and mothers. But the "Life at Conception" proposal has no penalties for anyone. A law against something, without a penalty for violating it, doesn't authorize prosecution of anyone for anything. What, therefore, is disclaimed by this disclaimer?

> *"However, nothing in this Act shall be construed to authorize the prosecution of any woman for the death of her unborn child."*

It is hard to imagine any practical effect of its assurance that it does not "authorize prosecution" of moms. This future proposal not only doesn't "authorize the prosecution of any" mother, it doesn't "authorize the prosecution of any" abortionist, either. Prosecution of an act is only "authorized" by a specific penalty for a specified act.

Even if the Life at Conception Act specified abortion as its target, and provided penalties, (enabling legislation), its promise that mothers would escape prosecution would remain empty, because once the personhood of the unborn is officially acknowledged states are required by the 14th Amendment to protect their Right to Life. No mere federal law has any authority over any state to order them to violate the Constitution. For that matter no federal law has any power to prevent states from prosecuting mothers.

(Of course, the political reality is that no such Act will ever pass without that assurance for mothers. It is essential that mothers hear those words. It matters little whether they have any legal meaning.)

The Life at Conception Act doesn't mention abortion; much less does it list appropriate penalties for various aspects of the crime; much less does it guide prosecutors in arriving at proportionate penalties in a variety of situations where justice requires taking into account uncertainty about facts and levels of culpability.

**Examples of situations requiring their own appropriate penalties:** should contraception have the same penalty as a surgical abortion, considering the difference in criminal intent – nearly everyone admits surgical abortion kills a human being, but even a majority of prolife Christians don't know contraception does? Should mothers be penalized equally with abortionists, considering the profound difference in culpability: abortionists are very clear about what they are doing, as evidenced by their efforts to keep mothers in ignorance of a number of facts which, if known, would depress business, while many mothers are not only kept ignorant of those facts but are sometimes under tremendous pressure to kill? If mothers are penalized, should age be a factor in weighing culpability, and consequently of a just penalty? That is, should a 12-year-old required to take a pill by her father receive the same penalty as a 17-year-old high school senior getting a surgical abortion without notifying her parents? Should a legislature accommodate the practical value of giving immunity to mothers who testify against abortionists? If contraception is penalized, how should the legislature treat forms of contraception where scientists are in doubt whether life is killed before or after conception? Since there is no body which a medical examiner can declare dead, and no way of knowing if a human was ever killed, should contraceptive use be prosecuted as murder, or as attempted murder?

The examples above are not arguments against penalizing certain ways of killing human beings by certain people. They are an argument that it is folly to expect prosecutors and courts to know what to do with a law against something which specifies no penalties. They are an argument that it is folly to expect prosecutors to simply follow the laws regarding murdering adults, when the evidentiary and culpability circumstances are so different.

In other words, if this proposed "Life at Conception Act" is passed without adding any penalties, it will not generate one prosecution of anyone, directly. This law will not authorize a single prosecutor to press charges against a single abortionist.

There are two ways it could cause prosecutions indirectly. First, states, on the strength of the "collapse" of abortion's legality triggered by this law, (which has already been triggered by the 2004 law), could outlaw abortion with specific penalties for abortionists. Congress itself might later set penalties, although they would have limited jurisdiction.

Second, the proposed federal law could be enforced by lawsuits in federal courts.

This would not be the first time Congress has outlawed crimes without bothering to state a

penalty or even specifying which authorities should enforce it. It happens so often that courts have developed a doctrine called the "implied right of private action". "Action" in this context means legal action through a lawsuit. "Private" means any individual, affected by the outlawed actions, could sue to stop it, without having to be a public official like a county prosecutor. The "right" to sue is "implied" by the obvious intent of Congress to prohibit the action, without provision by Congress of any other means of enforcing it other than a private lawsuit.

The problem is that those most harmed by abortion, the unborn, are unable to communicate whether the attorney purporting to represent them is doing so with their consent, and is presenting the defense that they would want. This is not an insurmountable obstacle, since "guardian ad litems" in child abuse cases "represent" born children they have never met, all the time, but it complicates it. It would be much simpler, legally, if the law would specify penalties.

The one thing the Life at Conception Act would do, had it not been already done in 2004, would be to trigger Roe's "collapse" clause. Once that was done, neither Congress nor the Supreme Court nor any state may forbid state or federal lawmakers from giving unborn persons as much legal protection as born persons.

So then, if the disclaimer *"...nothing in this Act shall be construed to authorize the prosecution of any woman for the death of her unborn child"* has no legal effect, why is it included?

The only practical purpose it can have is to soften political opposition with an empty promise.

Here is my guess why this empty promise was included: the political unthinkability of prosecuting a mother for aborting her unborn child is so strong that politicians think the Life At Conception Act is politically dead in the water unless it includes this empty promise. Even if the assurance has no legal force, murdering mothers are so anxious for that assurance that they demand to hear it anyway.

The assurance to mothers may be someone's wish, but I can't see that it has any legal meaning. Not only does it fail to trump the 14th Amendment, but federal law doesn't have that kind of jurisdiction over states, to prohibit them from penalizing mothers if they want to.

However, although this promise is empty, there are other reasons mothers were never penalized as much as murderers of adults – not even in America's Christian past when everyone accepted the full humanity of the unborn. (See chapter 8.)

These reasons are too little known to prevent the pervasive paranoia that requires empty promises. Talk of outlawing abortion terrifies today's mothers who fear being stoned for abortions they had before abortion was outlawed. They don't realize our Constitution prohibits "ex post facto laws", meaning laws which authorize prosecuting people who did what the law prohibits, before the law prohibited it.

But there is one painful effect that outlawing abortion will have on mothers who aborted before it was outlawed: it will nationally affirm the value that killing babies is terribly wrong. That will be a burden on any conscience, and an unbearable burden on a conscience that will not turn to Jesus for consolation, forgiveness, and love. Hopefully that value will be nationally affirmed in the same forgiving spirit as Acts 17:30 "And the times of this ignorance God winked [Greek: "overlooked; didn't punish"] at; but now commandeth all men every where to repent")

And of course as Chapter 4 pointed out, the clause feeds the legal doubt whether unborn babies are "persons in the whole sense".

In other words, two competing goals have generated this language: the goal of getting it passed through Congress, and the goal of getting it passed through courts. The empty promise is deemed necessary to get it through Congress, even though it could kill the measure in courts.

This "persons in the whole sense" problem is not insurmountable, but it requires an attack on part of the reasoning of *Roe v. Wade*. And in an age of reverence for the letter of Supreme Court rulings no matter how stupid, no matter how evil, no matter how bloody, that takes a little courage. Either that or we need to change the future proposal to strike out *"However, nothing in this Act shall be construed*

*to authorize the prosecution of any woman for the death of her unborn child."* But that will take courage too! There is no political will to even sound like you want to prosecute mothers!

A similarly toothless law was introduced in 2011 in the Iowa legislature by Kim Pearson, a lawyer. It was HF 153. It "recognizes...from the moment of conception...the same rights and protections guaranteed to all persons by the Constitution...."

> HF 153 Section 1. New Section. 1.19. Rights and protections beginning at conception.
>
> The sovereign state of Iowa recognizes that life is valued and protected from the moment of conception, and each life, from that moment, is accorded the same rights and protections guaranteed to all persons by the constitution of the United States, the constitution of the State of Iowa, and the laws of this state. The Iowa Supreme Court shall not have appellate jurisdiction over the provisions of this section.
>
> Sec. 2 EFFECTIVE UPON ENACTMENT. This act, being deemed of immediate importance, takes effect upon enactment.
>
> (This section would be added to the very first chapter of the Iowa Code, titled state sovereignty.)

But abortion is never mentioned directly as a target of this bill.

No penalty is linked to it.

We will not dote on the possibility that since "life" is not limited to "humans", the law might have conferred Iowa citizenship to animals. Or plants.

Kim should have been concerned that if the Supreme Court could classify Missouri's personhood language as meaningless, for want of connection to any specific penalty or restriction of abortion that reaches past probate, they can do it with HF 153.

Besides the problem that this bill does not clearly target abortion, because it lacks "enabling legislation", this bill illustrates the practical political problems of planning a showdown between Iowa and the federal government without saying so. This is an excerpt from my correspondence with Pearson and cosponsor Glen Massie at the time:

> But where would it be argued? This bill denies appellate jurisdiction to the Iowa Supreme Court, which the legislature has every legal right to do; but does that necessarily deny jurisdiction to Iowa district courts? It certainly doesn't touch federal courts or the U.S. Supreme Court, which are the courts to worry about. Rep. Glen Massie told me his scenario is a showdown with SCOTUS (Supreme Court Of The United States). He wants Iowa to tell SCOTUS it has no jurisdiction over Iowa's treatment of the unborn, if over anything else in Iowa. But if this is the strategy, shouldn't the bill say that? Shouldn't the bill deny jurisdiction to federal courts? Rather than get the bill passed and *then* say "by the way, we interpret this as denying jurisdiction to federal courts", and *then* find out if the federal courts interpret it that way?
>
> If there is no court where the interpretation of this bill can be resolved, isn't it especially important that the bill be unambiguous? If it is ambiguous in any detail of how to apply it, how will law enforcement know what to do with it? For example, suppose everyone can agree this means abortion is a crime. What about the exception for the life of the mother, where it has been historically argued that the state cannot demand that the mother lay down her life for her child? Does this bill intend to resolve that issue?
>
> Solution: make this unambiguous by joining it to new abortion laws, and making those laws, also, exempt from judicial review. If there is to be a showdown with the federal courts, it needs to begin now for two reasons: (1) you can't add denial of federal jurisdiction to the bill after it passes. And even if you could, (2) you can't generate the statewide support necessary for such a showdown by surprising Iowans with the battle after the bill passes. Statewide discussion must begin now. Iowans need to start thinking now about whether they

really want to do this.

There is another problem with denying federal court jurisdiction. The 14th Amendment says every person subject to the laws of a state shall have the equal protection of those laws. This was originally applied to prohibit state laws permitting slavery. If federal courts have no jurisdiction to enforce the 14th Amendment, does anyone? Is it to be unenforced, which would then permit slavery once again? (Not of blacks, this time; this time, the natural target would be "illegals".)

Solution: do not deny federal court jurisdiction. But give them something to chew on before they mess with Iowa. Declare not only that unborn babies have the same protection as "persons", but also that they are, IN FACT, "persons" and "humans"; and lay out the arguments that this establishment of FACT is what trigger's Roe's "collapse" clause, which in turn obligates states to protect the right to life of unborn "humans/persons". Do NOT leave out the fact that this fact was established in federal law, not just in Iowa law; that point is what will keep courts from arguing that national policy cannot be dictated by the several states which contradict each other.

"...the same rights and protections guaranteed to all persons by the Constitution..." does seem to suggest babies cannot be dismembered any more than state lawmakers can, but it may be no more than a suggestion since laws commonly dispense rights in proportion to capacity. For example everyone has the right to drive but you have to be 16 first. Everyone has the right to be a brain surgeon but you have to go to medical school first. Without the "collapse" arguments, and with Roe still intact, which says babies are not "persons in the whole sense", I would worry that the Supreme Court, which this bill does not and cannot push aside, might think the limited right to be born has been equally applied to all Americans less than 38 years old, so this law really calls for no change.

If you want a surreal experience, listen to the hour-long debate about this bill in a public subcommittee hearing. This was a Valentine for the Unborn, falling on February 14, 2011. I filmed it and posted it at https://www.youtube.com/watch?v=RT_pgPgqQko.

The most informative part is the debate between Kim and Beth Whasser-Name, the Democrat on the subcommittee, who of course opposed HF 153. (No, "Whasser-Name" isn't how to google her name, but it is close. I can't remember her name. It's one of those hyphenated names left over from the feminist movement, both names are in a foreign language, and I am 67 years old, for crying out loud! So I use a name I can remember, and that makes sense. And I'm sure it will be easier for you to remember, too.)

There are three remarkable things about the video.

1. Beth Whasser-Name gave an incredibly comprehensive list of the issues which any no-exceptions criminalization of abortion will need to address.

2. Kim Pearson answered after most of the issues, "yes, that will be a crime" or "no, it will not", just as if she had any idea how any future prosecutor or court will interpret her one paragraph law in each situation, and as if she were confident they would all interpret it the same as she did!

3. Even in the face of all that need for clarification, Pearson remained defiant against the onslaught of complexity. She is to be admired for her honesty to boldly state the politically unthinkable, and for her instincts to focus on the value of human life. But she is a lawyer. She should not have had to be told by Beth Whasser-Name, who is not a lawyer, that laws should clearly state how law enforcement should proceed in every circumstance affected by the law.

But that's the other surreal thing about this exchange. Whasser-Name never told Pearson that without enabling legislation, no one can predict what future prosecutors might pursue. Whasser-Name carried on as if all of Pearson's predictions would indeed follow passage of the law, and that is why the law should not be passed. It was like listening to two children arguing over imaginary rules by which

reality was expected to govern itself. “When I open the window, dad will bring me a pizza in his space ship.” “No he won’t! He will come in his submarine!”

Here is a transcript of the exchange. Whasser-Name describes a situation, asking if that would become a crime. Pearson answers. Then after each one I add, in blue, my opinion of whether it should some day be made a crime, and my reasoning for it.

The value of this is, I believe, its rather comprehensive list of all the issues prolifers ought to be thinking about whether, and how, to criminalize, when God finally grants us that authority.

Begins at 25:45 into the video.

**Penalties for mothers.**

W: I think we need to look at the unintended consequences which, because of the brevity of the bill, are included. ...Does this mean a woman who decides to terminate her pregnancy will be subject to prosecution?

P: ...she would be subject to our laws.

W: So this would be considered murder. Probably intentional murder because -

P: It would have to be....This wouldn’t be an accident...it goes to the doctor as well.

W: So the doctor would potentially now be charged with 1st degree murder. Without parole...

P: (Gesture of assent) We already have criminal laws on the books. You come to it with the idea that the only value to a human being is whether the mother wants the child or not. That is not right to view it like that.

Editorial comment: I give my reasons, and the historical reasons, why mothers should be charged lightly if at all compared with abortionists, in chapter 4. Jesus gave a very powerful teaching about taking both culpability of the defendant and of culture as human courts judge lawbreakers. Please see my Bible study at http://www.examiner.com/article/the-woman-caught-adultery-how-u-s-law-follows-jesus-example.

W: Thank you. I appreciate your honesty and your passion.

**Contraception.**

The next issue: I am concerned about contraception. I think many families rely on contraception for family planning. It’s my understanding that birth control works in three ways. By preventing a woman from releasing an egg – by preventing her from ovulating; by preventing fertilization; or by creating a change in the uterine lining which would reject the fertilized embryo. I understand that it is impossible to know which way that birth control method works in each circumstance. Under this bill, I think the third option would violate the code. So will the state be forced to ban contraception to make sure that no fertilized egg gets - ?

P: I don’t know.

W: Do you see that as being a problem, if we have to ban contraception from many families in Iowa?

P: No, I don’t see that as a problem. I see that as an (? inaudible)

W: Is a woman who uses contraception criminally liable?

P: (Gesture suggesting “I don’t know” and “what an annoying question”.)

W: How does the state enforce that?

P: (Same gesture) Let’s get back to the focus on the value of human life. I mean if you want to get into contraception, you know, I’m sure that the state is [not] going to get involved in going into the bedroom to see if a woman is using contraception. What I want to do is make sure that our culture values life. You want to go around the edges of it, but get right to it. Talk about life, and whether or not it is valued. It is murder. That is one of the issues that is never in the debate. And that’s where I think this bill talks about. ...Is the state in that position of protecting life, or not? Do we really believe that life is equal? Do we really believe in life, the pursuit of happiness, liberty? That’s the issue.

Editorial comment: Certainly only a fraction of prolifers, overall, would tolerate laws against

contraception, but a considerable portion of the most devoted prolife activists definitely target contraception equally with surgical abortion. So Whasser-Name is right to ask about it, and it is crazy for any law to claim to protect all human life from fertilization to avoid taking a position on contraception!

W: I think those are laudable goals, and we need to consider those. But I also think that we have to consider unintended consequences. Not necessarily in the bedrooms, but certainly in the state regulated pharmacies, pharmaceutical companies. Many drugs are put on different schedules that allow us to use them for certain things, and not for other certain things. That's what the state does. And if this bill interrupts those medications, which women - I don't think there are contraceptives for men yet, but usually women, take for family planning, I think that is something that we need to consider as legislators. I don't think we should ignore that, in a bill that we are voting on to put into our code. So I appreciate where you are going, I appreciate your respect for life... Do you have a plan for who will become the criminal in a contraception case? The Pharmacist? The physician? Or the woman who is taking the contraception?

P: (shakes head)

W: That's not in the plan at this time?

P: No. (Facial expression: what a nitpicker!)

Heaton: I'm not following the thing with contraception. Because the bill, "moment of conception", that's it. Anything that prevents the conception, ...that's not here.

Editorial comment: State Representative Heaton assumes, as do most average prolifers, that contraception prevents fertilization. He does not know that often the killing is after fertilization, and sometimes after implantation. He is a prolife state representative and even he does not know that. This is a measure of how much public education prolifers will need before a majority of them will support laws against contraception.

(33 minutes into the video)

W: ...(lists 3 ways contraception works again. The first two ways) would be acceptable under this law. But another way is by creating a change in the uterine lining so that it prevents the fertilized egg or the embryo from implanting. That would not be legal under this law. And we don't know, in each circumstance, which way the birth control is working. It's different every time. It's different in the time of day a woman takes the medication, it's different on when she has intercourse...so we don't know how that's happening, and therefore I do believe that contraception could very well become illegal under this bill.

H: You're talking about the morning after pill?

W: No, I'm talking about the birth control pill, the things that are implanted in a woman's arm now, there is a shot that a woman can get every 3 months or so, all these are hormonal. There' s also an IUD that there are concerns, questions about how that actually works, so those are at least four different types of contraception that are commonly used by Iowa families who are trying to control their fertilization, control the growth of their family, that under this law, would become illegal. And I have some concerns there.

Editorial comment: Taking a contraceptive should not be a crime for practical legal reasons suggested here, and more: (1) humans can't tell if any human is ever killed by a woman's contraceptives, without which we don't know whether to charge her with first degree murder or attempted murder; (2) we don't know whether the killing was before or after conception, without which we don't know if there was a human victim; (3) government can't normally document whether a woman takes contraceptives, without a massive government intrusion of monitoring sufficient to finish off what liberties we still enjoy. However, we can create penalties for doctors and pharmacists who distribute contraceptives. Since they are already accustomed to a long list of prohibited and restricted drugs, one more won't crimp their style; the remaining concern for voters will be whether such a demand for contraceptives will remain that a black market for them will feed crime like marijuana and

like drugs do.

These are legitimate legal considerations even for Christians who honor all human life as sacred from conception. Even Kim Pearson, who is "no exceptions" to the point of readily, publicly, with NPR microphones in her face, calling for first degree murder charges against mothers who get surgical abortions, thought it ridiculous to criminalize contraception, though she had apparently not thought of it previously.

This distinction between the prosecution of crimes which humans can document and enforce, alongside the "amnesty" given criminals whom humans cannot detect, is Biblical. God's laws under Moses do not hold communities responsible for crimes they can't solve. Deuteronomy 21:1-9. And a quick tour through Matthew 5 reveals several examples of where God's laws under Moses criminalized only a fraction of what God considers wrong. Where Jesus gives more detail about what is a crime before God but not before human courts, we see that these are "thought crimes" which humans have no capacity to document.

However, this common sense can't be assumed to be in the heart of every future prosecutor and judge who will enforce our general principle whose application to contraception is vague. We need enabling legislation clear enough that prosecutors will not have to guess what is a crime, leaving 10 different prosecutors to come up with 10 different guesses, and leaving citizens with no idea what they must avoid to stay out of jail.

A way to absolutely leave no confusion would be a "findings of fact" or "legislative intent" that says something like this:

> "It is the intent of the general assembly to protect human life from the moment of fertilization as fully as Iowa law protects adult human life, limited only by the practical relative difficulty of determining whether there has been a death, whether any death was before or after fertilization, and what actions of the mother, if any, contributed to any death, subject only to the natural limits on human prosecutors to establish when (1) humans can't tell if any human is ever killed by a woman's contraceptives, without which we don't know whether to charge her with first degree murder or attempted murder; (2) we don't know whether the killing of life was before or after conception, without which we don't know if the victim was human; (3) government can't normally document whether a woman takes contraceptives, without a massive government intrusion of monitoring sufficient to finish off what liberties we still enjoy.

To state the principle of protecting all human life in as absolute terms as Kim says, by saying it is the intent of the Iowa legislature to protect unborn life every bit as much as adult life, without any guidance to prosecutors how to apply it in real life situations, dangerously fires legal imaginations.

**Prenatal care.**

I am also concerned about a troubled pregnancy, and what we can do...as this bill is written, I think a woman is considered to be a legal guardian of a child, with an egg that has been fertilized? Is that correct?

P: (Just glared at W)

W: We know that prenatal care is essential for the wellbeing of a baby during its months in the womb. If a mother is not able to access prenatal care while she is pregnant will she be criminally liable for endangering the welfare of her child?

P: Nope. Not that I know of.

W: Is that ceded in the law? [How much assurance can you give us that she will not be liable?] Because we are saying very clearly that life begins at conception.

P: (Nods)

W: And so a woman is responsible for that life for the first 40 weeks. Is she criminally liable

then if she doesn't take care of herself? If she smokes, is this child abuse? Or if she drinks alcohol, if she is obese, if she gets diabetes, if she over exercises, gets too hot, I know that's a concern for doctors especially early in pregnancy? Is the woman now a child abuser? And do we have reason to prosecute her on that?

P: No. It's not. You're coming up with all these peripheral issues I think. You're getting away from the intent to protect life.

W: I think legislative intent is very important. But if we don't have a law written, to say what we actually intend to do, then all of this could be up for interpretation by somebody else. By whoever is enforcing this law.

Editorial comment: Indeed it is! What prolifer has thought of these legal implications of "no exceptions" protection from fertilization? And yet isn't it valuable to plan ahead for these questions?

Indeed, are we ready to send our child abuse police after pregnant women as viciously as they go after parents of born children?

My answer is no, for two reasons: first, the connection between what doctors recommend and danger to the child in the womb is both relative (a matter of degree, where there is no clear line between what behavior is OK and what is not) and imprecise (doctors can only guess what will harm the child, and every doctor will guess differently, leaving doctors witnessing in court to contradict each other).

Second, child abuse law today is driven by psychiatrists whose own research shows they can't help anybody any more than a friend can. It operates with vague definitions without clear lines, like "dirty home" or "imminently likely to inflict emotional abuse". It operates without a standard of evidence, unless you count "preponderance of evidence", defined as if the judge is slightly more inclined to think you are guilty than that you are innocent, you are guilty. Trials are never by jury. Hearsay is welcome in the record. All these abuses need to be removed from all parents, not added to the backs of expecting parents too! See www.Saltshaker.US, click on "child abuse".

36 minutes into the video

**Fertilization certificates when pregnancy begins, death certificates for miscarriages?**

And we need to be very clear on what we plan to do. For example. Most women tend to go over the counter and get a pregnancy test. You go into a pharmacy, or a grocery store, and you buy a pregnancy test. Is that women now required, or is a doctor required, to notify a recorder's office, which is where we notify of death, or at birth, that there is a life that needs to be protected by the state?

P: No.

Editorial comment: What prolifer has thought of this? Leave it to one of Hell's lawmakers! But it is a valid question about any "no exceptions" law. I would argue against state certification simply because I see no benefit to the child of state involvement at that age. When there is a miscarriage, it would be virtually impossible, in most cases, to prove in a human court whether the parents' negligence caused it.

W: How do we plan to protect those embryos that are developing?

P: The greatest way to protect that is to have a culture of life, that doesn't allow the murdering of innocent children. And there are pregnancy centers and churches that will step up and help.

(37 minutes into the video)

So I'm not going to be going in and trying to figure out if there is a fertilized embryo, which is basically saying we are not going to mandate advocate, pay for abortion.

Editorial comment: Beth Whasser-Name is absolutely correct to demand answers to these questions of a bill which protects unborn and born life alike without giving any detail how to apply that principle in myriad situations.

And yet Kim Pearson would be correct to ridicule Beth's questions about issues prolifers don't think about, *if* there were even *one* specific act with one specific penalty. All kinds of laws are prefaced with a statement of "legislative intent", which anyone might observe is not completely met by the laws

that follow. And yet no one in law enforcement thinks "oh, here's a guy doing something not penalized by the law, but he is violating the legislative intent; we had better arrest him"! No, everyone understands that the law with its specific penalties for specific acts is the legislature's solution to the problem, and is satisfied to enforce no more than the law.

It's Kim's creative intent to apply existing criminal laws to killing unborn babies which causes all this legal confusion, because although the value of the life is not different, the legal circumstances such as ability to document a death of a human, not to mention the existence of a violation, and culpability, are very different.

**In Vitro Fertilization**

W: An issue that's near and dear to my heart is infertility treatments. And when you said you want to be a mom (W addresses another woman at the hearing who previously testified at Pearson's invitation) I can truly relate to that. I remember for many years wanting to be a mom, and struggling with that. Because of infertility treatments, I am very concerned for the families who are building their families through in vitro fertilization. Because of this bill, the in vitro process creates numerous fertilized eggs in a laboratory, so that the technician has a plentiful supply. Not all of these embryos that are created actually become children. If one of these embryos does not develop normally, in a lab, or fails to result in a live birth, after being planted in the uterus – this frequently happens – is the patient, the physician, or the lab criminally liable for those embryos that didn't make it?

P: Once again, you're off on the periphery. Here we are talking about the intent to save life. Is your intent to kill? No. You've got to get to the issue here. Whether or not you think life is valuable and worthy of protection. You've been skirting around this. What is your answer to that?

W: My answer is that when we write legislation, we have to be careful to avoid unintended consequences that can seriously impact the lives of Iowans. Iowa families that want to grow through in vitro fertilization are as equally important to me, as Iowa families who grow normally. And I want to make sure that this law does not make it so that those women, their physicians, or the lab are criminals. That's my reaction to this. And we legislators are responsible for doing that. If we pass a law that says in vitro fertilization would be illegal under this, that would be so damaging to so many families I know, and would create the loss of some really incredible children that I know, and so I am very concerned that the words you have written, Representative Pearson, does that.

P: I don't believe it does.

W: I think it does.

P: I don't.

W: One question is very telling. Frequently what happens is a couple goes through in vitro fertilization. They have numerous embryos which are fertilized. Some of them are implanted into a woman. If three are implanted and one takes, that's considered a success. So two have now disappeared and essentially died. But what happens after the extra embryos are then frozen? Lots of things can happen. A couple has a choice. They can put them up for adoption. They can have them destroyed. Or they can put them up for research. Are those going to be options for those parents any more?

P: You're talking about embryonic stem cell research?

W: There is research, there is destruction, and there is adoption. Or there is implanting.

P: No.

Editorial comment: This moral issue  really has me stumped. I think Whasser-Name has a very important question that prolifers should answer, but I've not heard this discussed. I have always admired this technology that allows otherwise infertile couples to have children. That certainly is a Biblical goal! But if every fertilized egg really is a human being, and destroying them is murder, then in vitro fertilization is a murderous business! Would it kill the technology to make the labs hold off on fertilizing an egg until it is determined that it will be implanted?

**Inheritance rights of embryos.**

W: OK. How about if there are frozen embryos, and both biological parents are deceased. They

have two children that are alive, and running around, and both of the parents die. Do those embryos get full rights of inheritance? Which would reduce the share of the children who were actually born?

[She is asking whether embryos can "inherit" wealth, not after they are implanted and are born, but while they remain embryos; in other words, can a share of the inheritance be diverted to keeping them alive!]

P: I don't think so.

W: So what happens to them, then?

41:47

P: What happens to them now?

W: (repeats 4 choices)

P: Again, it's back to the intent of life. Here you are trying to say that they're inheriting something? Even a child that goes through a natural pregnancy and maybe dies, you're not asking whether that person inherits, are you?

W: These [embryos] are still potential life. They are potential siblings to these children who are alive. It costs the parents money to keep them in the frozen state that they are in. I think it's a legitimate question to ask what happens when we are saying they are life, do they get inheritance rights when the parents are deceased?

P: One of the things you said that I wholeheartedly disagree, you said they are potential life. They *are* life. They have potentiality – they may grow up to be the president. But they are life. And that is what I am talking about. Changing this culture from one that so quickly goes to death to one that actually celebrates life – and I believe in in vitro fertilization. Absolutely. And these are the issues that they're having to deal with. But they have to continue to take care of those babes. And as far as the inheritance thing? They won't inherit, as far as I can tell.

W: Well, it costs money to keep them. So they're going to inherit something.

Editorial comment: Yes, this is a legitimate, and important, question. If killing the embryo is murder, then somehow the embryo must be maintained. And yet when maintaining it means keeping it frozen in a petri dish, somehow that doesn't strike me as God's vision for mankind, either. This problem can be solved, of course, if the technology can survive being prohibited from fertilizing an egg until time to implant. Then there won't be any frozen embryos to destroy, to research, or to inherit.

These are just the very beginning of the questions that I have. There are consequences when we pass legislation. We all know that. We can't pass legislation without looking carefully at the words that we are putting into law, where we're putting them into law. I have many other questions, but if we are going to impact contraception, and infertility treatments, which the law, as it's written right now, absolutely will, we need to go back and look at how we can fix those problems. I respect that we probably disagree on whether it's potential life, or life. But when we are talking about embryos in a frozen dish, I think there are a lot of other potentials for it too, for saving life in many different ways.

P: So if those concerns that you brought up were met, then you would agree that life is valuable and should be protected?

W: I agree that life is valuable and should be protected but we may disagree on how to go about doing that. Absolutely.

Ends at 45:30

## 7. Wouldn't the Supreme Court simply rule 18 U.S.C. §1841 "unconstitutional", rather than allow it to trigger Roe's "collapse"?

Answer summary: The U.S. Supreme Court has to conform its rulings to federal

laws until such time as it finds them unconstitutional. It is going to be pretty difficult for the Court to find 18 U.S.C. §1841 unconstitutional, because it, and state laws like it, have had their constitutionality challenged often by murderers who didn't like being charged with murder twice, and courts have unanimously found such laws constitutional. Perhaps it is to let this case law build up, that God has seen fit to let nine years pass since 18 U.S.C. §1841(d)'s passage before turning it loose to trigger Roe's "collapse".

And yet this powerful opportunity to knock out legal abortion with this law which the Supreme Court cannot rule "unconstitutional" has been perceived as almost the opposite: that the only reason laws like 18 U.S.C. §1841 remain "constitutional" must be because the "abortion exception" strips it of any challenge to abortion. Therefore the legally established fact that all unborn babies are human/persons must be powerless to trigger Roe's "collapse" clause.

But that issue remains untested in virtually any court. All these cases considered the opposite issue: whether Roe's dehumanization of the unborn has the power to topple laws that humanize the unborn. Humanization of the unborn was found to be constitutional in every case, despite Roe!

In fact that line of rulings goes back to *Webster v. Reproductive Health Services,* 492 US 490 (1989), which said until such point as personhood language is applied to the restriction of abortion, through laws that specify penalties for abortion, the issue is not even before the court, of whether or not personhood declarations, and *Roe*, are irreconcilable, and if so, which should be struck down.

I posted this information in Wikipedia's article, "Unborn Victims of Violence Act", on April 28, 2012, two days after I posted the addition I referenced in Answer #5. As of April 19, 2013, the information is still there, untouched. The two paragraphs before my addition had said, and still say,

> The Unborn Victims of Violence Act was strongly opposed by most pro-choice 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 Constitution, and that if the fetus were a Fourteenth Amendment "person," then he or she would have a constitutional right to life. However, the laws of 36 states also recognize the human fetus as the legal victim of homicide (and often, other violent crimes) during the entire period of pre-natal development (27 states) or during part of the pre-natal period (nine states).[8] Legal challenges to these laws, arguing that they violate *Roe v. Wade* or other U.S. Supreme Court precedents, have been uniformly rejected by both the federal and the state courts, including the supreme courts of California, Pennsylvania, and Minnesota.[9]
>
> Some prominent legal scholars who strongly support *Roe v. Wade*, such as Prof. 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*.[10]

In my note for the "history" page explaining the purpose of my edit, I said "The previous two paragraphs stated that this Unborn Victims... law does not conflict with Roe, but leaves hanging how that is possible. I inserted one explanation, from Webster." Here is the explanation that I inserted:

> A principle that allows language in a 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.[11] [The footnote reads:] ...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'Conner 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."

The fact that 11 "persons" and one robot have edited or talked about the article since my addition, not to mention however many others have read it, and my two additions have not been challenged or modified much less removed, is some measure of scrutiny which my understanding of these laws has received, and of concurrence that what I have said is true.

Also going all the way back to *Webster* is the misconstruing of rulings affirming the constitutionality of personhood language as rulings that personhood language has no power to trigger *Roe's* "collapse" clause. Prolife lawyers to this day insist that was *Webster's* holding, despite *Wester's* explanation that courts aren't supposed to rule on issues not brought before them. Missouri Attorney General Ashcroft had even gone out of his way to promise the Court that the personhood language would not be applied to restricting abortion, and the personhood language itself had an abortion exception! Can you imagine that? Personhood language with an abortion exception!

(Actually there is a logical way around that exception, since April 1, 2004 with the passage of 18 U.S.C. §1841(d). The Missouri exception makes the personhood language subject to *Roe*. But *Roe* makes itself subject to future personhood language. Therefore Missouri could have, and still can, criminalize abortion, and argue in court that its law against abortion obeys *Roe's* "collapse" paragraph which requires states to protect the unborn in obedience to the 14th Amendment upon "establishing" that the unborn are human.)

(Answer 8 has more detail about Webster.)

Wikipedia puts in words what I have heard many say, including Congressmen during the debates of the 2004 law: that "legal challenges to [identical state] laws, arguing that they violate Roe v. Wade...have been uniformly rejected by...courts", which proves that the 2004 law has no power to make the case "that the human fetus is...a 'person' under the 14th Amendment...[with] a constitutional right to life."

In none of these cases (reviewing the constitutionality of "unborn victims of violence" laws) was the issue whether the establishment of all unborn babies as humans/persons triggers legal abortion's "collapse". That issue has never been raised in any case; it remains untested before any court. [1]

The issue raised in all these cases was just the opposite: it was whether Unborn Victims of Violence laws are constitutional since they conflict with Roe v. Wade! All these courts decided it was! All these courts affirmed the constitutionality of their establishment of all unborn babies as humans/persons! One of these courts was the U.S. Supreme Court! (The last case on the list below.)

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1 (Well, technically, the exception is the James Kopp case. But the issue wasn't available for 6 years after the1998 case began, and wasn't raised by Kopp for 2 years after that, so it was raised only in the final desperate appeals, years after everyone stopped paying attention to it, so it was easy for judges to sweep the issue under the rug without addressing it. The issue is strongly asserted in one other criminal case: the case of Scott Roeder, who shot late term abortionist George Tiller May 31, 2009. I learned of this issue while I was assembling a "pro se" brief which Scott submitted and was entered into his record January 8, 2010. Kopp's legal team, with some communication with Kopp himself, sent me arguments from Kopp's record just in time for me to add them to Scott's brief. Later after Scott's appeal had begun, Scott gave me the opportunity to prepare a second brief, for the appeal, in which I reasserted those arguments: a "pro se supplemental brief", docketed January 5, 2012. The first brief was mentioned in dozens of news articles. Criminal trial author Stephen Singular told *In Session* it was "incredibly well thought out". (See answer #13 for the link.) Two law professors were quoted by two news reporters as saying my arguments have no validity, although neither professor had actually read my brief, according to the articles. The second brief has not yet been mentioned in the news. We shall see how these issues proceed in Scott's case.)

Remember that all these challenges to 2004-type laws were brought, not by prolifers wanting to end legal abortion, but by thugs who killed pregnant wives or girlfriends and wanted Roe's dehumanization of the unborn to stomp the life out of Unborn Victims of Violence laws so they wouldn't be convicted of a double murder!

Here is an overview of the cases (summarized from Wikipedia):

**California**: People v. Davis [872 P.2d 591 (Cal. 1994)], "fetus" was properly added to the state murder code, but the term applies "beyond the embryonic stage of seven to eight weeks." <> People v. Dennis [950 P.2d 1035 (Cal. 1994)], capital punishment for a double murder OK'd.

**Georgia**: "The proposition that Smith relies upon in Roe v. Wade -- that an unborn child is not a 'person' within the meaning of the Fourteenth Amendment -- is simply immaterial in the present context to whether a state can prohibit the destruction of a fetus." Smith v. Newsome, 815 F.2d 1386 (11th Cir. 1987). <> See also Brinkley v. State, 322 S.E.2d 49 (Ga. 1984) (vagueness/due process challenge).

**Pennsylvania**: "to accept that a fetus is not biologically alive until it can survive outside of the womb would be illogical, as such a concept would define fetal life in terms that depend on external conditions, namely, the state of medical technology (which, of course, tends to improve over time). . . viability outside of the womb is immaterial to the question of whether the defendant's actions have caused a cessation of the biological life of the fetus . . ." Commonwealth of Pennsylvania v. Bullock (J-43-2006), December 27, 2006, rejecting constitutional challenges to the Crimes Against the Unborn Child Act, 18 Pa. C.S. Sec. 2601. <> Commonwealth of Pennsylvania v. Corrine D. Wilcott, January 24, 2003, arguments were rejected that the law is unconstitutionally vague, violates U.S. Supreme Court abortion cases, violates equal protection clause, and conflicts with state tort law on definition of "person."

**Texas:** Terence Chadwick Lawrence v. The State of Texas (No. PD-0236-07), November 21, 2007, the court explained that after learning that a girlfriend, Antwonyia Smith, was pregnant with his child, defendant Lawrence "shot Smith three times with a shotgun, causing her death and the death of her four-to-six week old embryo." For this crime, Lawrence was convicted of the offense of "capital murder," defined in Texas law as causing the death of "more than one person . . during the same criminal transaction." The court said that the abortion-related rulings of the U.S. Supreme Court have "no application to a statute that prohibits a third party from causing the death of the woman's unborn child against her will." The court noted, "Indeed, we have found no case from any state supreme court or federal court that has struck down a statute prohibiting the murder of an unborn victim, and appellant [Lawrence] cites none."

**Utah**: State of Utah v. Roger Martin MacGuire. MacGuire was charged under the state criminal homicide law with killing his former wife and her unborn child. He argued that the law, which covered "the death of another human being, including an unborn child," was unconstitutional because the term "unborn child" was not defined. The Utah Supreme Court upheld the law as constitutional, holding that "the commonsense meaning of the term 'unborn child' is a human being at any stage of development in utero. . ." MacGuire was also charged under the state's aggravated murder statute, which applies a more severe penalty for a crime in which two or more "person" are killed; the court ruled that this law was also properly applied to an unborn victim and was consistent with the U.S. Constitution. January 23, 2004.

All of the following challenges were based at least partly on *Roe* and/or denial of equal protection:

**Illinois**: U.S. ex rel. Ford v. Ahitow, 888 F.Supp. 909 (C.D.Ill. 1995), and lower court decision, People v. Ford, 581 N.E.2d 1189 (Ill.App. 4 Dist. 1991). <> People v. Campos, 592 N.E.2d 85 (Ill.App. 1 Dist. 1992). Subsequent history: appeal denied, 602 N.E.2d 460 (Ill. 1992), habeas corpus denied, 827 F.Supp. 1359 (N.D. Ill. 1993), affirmed, 37 F.3d 1501 (7th Cir. 1994), certiorari denied, 514 U.S. 1024 (1995).

**Louisiana**: A double murder charge for the same act is not "double jeopardy": State v. Smith, 676 So.2d 1068 (La. 1996), rehearing denied, 679 So.2d 380 (La. 1996).

**Minnesota**: State v. Merrill, 450 N.W.2d 318 (Minn. 1990), cert. denied, 496 U.S. 931 (1990). establishment clause -- State v. Bauer, 471 N.W.2d 363 (Minn. App. 1991).

**Wisconsin**: regarding due process -- State v. Black, 526 N.W.2d 132 (Wis. 1994) (upholding earlier statute).

**Missouri:** State v. Knapp, 843 S.W. 2nd (Mo. en banc) (1992), the Missouri Supreme Court held that the definition of "person" in Mo. Rev. Stat. 1.205.1 is applicable to other statutes, including at least the state's involuntary manslaughter statute.

## 8. Didn't Webster say personhood affirmations have no power to topple Roe? How then can any legal argument based on personhood language in any law undermine legal abortion?

Answer summary: Webster did not say "personhood affirmations have no power to topple Roe", but only "as long as a personhood affirmation is not directed against abortion, we see no need to decide whether it has the power to topple Roe."

And finally we come to the U.S.Supreme Court case affirming the right of states to humanize the unborn in their laws: *Webster v. Reproductive Health Services* (492 U.S. 490), 1989.

Webster said a state is free to enact laws that recognize unborn children, so long as the state does not include restrictions on abortion that Roe forbids.

This is commonly characterized as meaning that at such point as a state dares to apply its humanization of the unborn to criminalizing abortion, then that application, forbidden by Roe, *must be found unconstitutional.*

That isn't what Webster said.

Webster said that at such point as a state dares to apply its humanization of the unborn to criminalizing abortion, then that application, forbidden by Roe, *will finally be sufficient reason for the Supreme Court to reconsider the constitutionality of Roe!*

As Sandra Day O'Conner explained it, concurring with the majority:

> O'Conner: 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. *Ashwander v. TVA,* **297 U.S. 288**, 346, 347. ….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. Pp. 525-531.

Not that, prior to the Supreme Court reversing Roe, the Court would ignore contradiction by a state. It's just that before there is a clear contradiction, the Court has nothing to decide. As the majority explained it:

> (This is taken from the syllabus, [official summary], not the ruling itself) This Court need not pass on the constitutionality of the Missouri statute's preamble. In invalidating the preamble [of Missouri's law with the personhood statement], 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, and § 1.205.2 can be interpreted to do no more than offer protections to unborn children in tort and probate law, [For example, the rights of a child to inherit property left by a father who died before the child was born] which is permissible under *Roe v. Wade, supra,* at 161-162. This Court has emphasized that *Roe* implies no limitation on a State's authority to make a value judgment favoring childbirth over abortion, *Maher v. Roe,* **432 U.S. 464**, 474, and the preamble can be read simply to express that sort of value judgment. 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. *Alabama State Federation of Labor v. McAdory,* **325 U.S. 450**, 460. Pp. 504-507.

The Missouri law reviewed, Mo. Rev. Stat. 1.205.1, declares that "the life of each human being begins at conception," that "unborn children have protectable interests in life, health, and well-being," and that all state 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. A lower court had held that Missouri's law "impermissibl[y]" adopted "a theory of when life begins," but the Supreme Court nullified this ruling, and held that a state is free to enact laws that recognize unborn children, so long as the state does not include restrictions on abortion that Roe forbids.

In other words, the personhood language has no legal meaning except to whatever extent it is coupled with specific laws describing specific actions and affixing specific penalties; either by the unambiguous letter of the law, or by subsequent case law from courts. There is no need, or even basis, for reviewing the constitutionality of a toothless law.

Toothless. Not meaningless! "The life of each human being begins at conception" and has "protectable interests in life" could not very much more clearly invoke the 14th Amendment, thus criminalizing abortion! But the law promised not only to be subject to the Constitution, but to Supreme Court rulings. Courts don't worry about laws that *might* be taken as a challenge to the Constitution, if they can also be interpreted as consistent with the Constitution.

The way around this legal obstacle, even for Missouri, available since April 1, 2004 with the passage of 18 U.S.C. §1841(d), was given towards the beginning of Chapter 7, and here it is again: The Missouri exception makes the personhood language subject to *Roe*. But *Roe* makes itself subject to future personhood language. Therefore Missouri could have, and still can, criminalize abortion, and argue in court that its law against abortion obeys *Roe's* "collapse" paragraph which requires states to protect the unborn in obedience to the 14th Amendment upon "establishing" that the unborn are human.)

The future proposed Life At Conception Act is toothless. It contains not one single penalty. It makes no reference to abortion. Nothing in it discourages the interpretation that its reach is limited to probate. *Webster* is a 1989 Supreme Court gauntlet, saying "If you're going to pitch the ball and expect us to swing at it, you're going to have to get it in the air! This isn't bowling!"

Well, that's *close* to what they said. They said even *Roe* allows states to treat the unborn as fully human persons from the moment of conception, in probate cases. (For example, when a child is born after his rich father dies, he can inherit his father's fortune.) So if you can't show us a law that specifically applies your glorious view of when life begins beyond a probate case, go home and quit bothering us!

So here come more prolife fundraising letters dreaming of yet another law that does not specifically apply the truth of when life begins beyond a probate case!

## 9. 18 U.S.C. §1841(d) only applies its definition of unborn babies as "members of the species homo sapiens" "in this section". Therefore, isn't it canceled by other federal laws that say babies whom their mothers are too hard hearted to love are *not* human beings, for example, F.A.C.E.?

Answer summary: Neither FACE, nor any other American legal authority, has ever dared assert that any unborn baby is not human. Roe dared say no more than "we cannot tell". The grammar of "in this section" normally does not mean "only in this section", but "in this section and all similar contexts."

F.A.C.E., Freedom of Access to Clinic Entrances, takes no position on the humanity of the unborn. *Roe* is the bravest any lawmaking authority has come towards positively asserting that unborn babies are *not* human beings; *Roe* dared say no more than "we cannot tell". (Shades of Matthew 21:27.)

The 2004 law says its definition of all unborn babies as human beings applies "in this section" (of the U.S. Code), which adversaries may argue means "*only* in this section".

Grammatically, to say a definition of a word or phrase applies "in this context" never means it applies only in the specific example before us and nowhere else in English literature. It always means "in this and all similar contexts".

For example, in State v. Knapp, 843 S.W. 2nd (Mo. en banc) (1992), the Missouri Supreme Court held that the definition of "person" in Missouri law is applicable to other statutes, including at least the state's involuntary manslaughter statute.

Rationally, the interpretation that unborn babies are human beings while you are reading one section of federal law but might turn into something less while you are reading another section is absurd. The definition legally recognizes a fact: the unborn babies of humans are humans. This is acknowledged as a fact. Courts treat facts as not their area of expertise. They defer to juries, expert witnesses, and legislatures to establish facts. *Roe* even said:

> (If not even the doctors and preachers can agree "when [human] life begins") 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*

Facts do not change according to which section of law you are reading. Certainly not facts like this!

Not only would it be absurd to speculate that any competing fact exists when you are reading any other section of the U.S. Code, but in fact there is no competing definition of the humanness of the unborn anywhere else in the Code.

It is this fact, legally acknowledged in this federal law, which "establishes" the personhood of the unborn. It is irrelevant which sections of federal law acknowledge this fact. It is irrelevant how many sections of law are affected by establishment of this fact.

It is also irrelevant whether there are sections of federal law which should be affected by this definition but which aren't yet. For example, FACE, 18 U.S.C. §248, Freedom of Access to Clinic

Entrances, enacted in 1992, creates draconian penalties for trying to save lives taken by abortion. Its continued existence, even after Congress discovered that all unborn babies are human beings, is absurd and horrifying.

But there are two reasons FACE does not undermine the 2004 definition's satisfaction of the conditions of Roe's "collapse" clause: (1), the 2004 definition came 12 years after 1992; federal law is a patchwork of laws reflecting the varying principles held by over 100 different Congresses over two centuries; contradiction in the philosophies behind human laws is to be expected. If it were grounds for invalidating laws we would have few laws! But who would decide which to repeal in the event of such a contradiction? (2) The 1992 law does not dispute that the unborn are human beings. It simply ignores the issue.

In 1992, saving unborn humans was severely punished, while ignoring the little detail of whether they were humans; in 2004, they were declared humans, without this principle being explicitly applied to the repeal of the 1992 law. There is no contradiction in the letter of the law. There is no confusion in how to enforce the two laws. Even if states ever criminalize abortion and are upheld, while FACE remains, there will be no confusion; abortionists will be arrested by states, but civilians will still be arrested who try to stop abortionists themselves. The contradiction is only in the philosophies that inspired them.

But even that is entirely typical for humans, since some of the very same human lawmakers voted for the 1992 law as who voted for the 2004 law, without little or no attention to their philosophical inconsistency.

If philosophical inconsistency were grounds for repealing laws and rulings, we would never have gotten *Roe v. Wade* in the first place! *Roe* certainly has little consistency with the Preamble to the Constitution which says the beneficiaries of its rights are "ourselves and our posterity"! *Roe* certainly robs half our posterity of their right to life, without which all the rest of our Constitutional Rights are of little value!

## 10. What is the actual text of the 2004 Law and the Life At Conception Proposal?

**Laci's Law=The Unborn Victims of Violence Act**. 18 U.S.C. § 1841

Introduction: Section (a) applies this law's *penalties* only to a list of 68 federal criminal violations. But section (d) defines all unborn babies as "members of the species homo sapiens" as a *fact* recognized by federal law. Federal law didn't have to do that. In fact, the Democrats offered an alternative that didn't do that. The application of the *fact* established by (d) cannot be limited to the 68 crimes, or to any limited areas of federal law. If one federal law says "running water is wet", and another federal law says "running water is dry", that would fail the Supreme Court's "absurd result" test. But now that a section of federal law says unborn babies of humans are humans, and no law, federal or otherwise, says otherwise, we have the uncontested legal recognition of all unborn babies of humans as humans.

Text of the law:

**(a)**

**(1)** Whoever engages in conduct that violates any of the provisions of law listed in subsection (b) and thereby causes the death of, or bodily injury (as defined in section 1365) to, a child, who is in utero at the time the conduct takes place, is guilty of a separate offense under this section.
**(2) (A)** Except as otherwise provided in this paragraph, the punishment for that separate offense is the same as the punishment provided under Federal law for that conduct had that injury or death occurred to the unborn child's mother.

**(B)** An offense under this section does not require proof that—

**(i)** the person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or

**(ii)** the defendant intended to cause the death of, or bodily injury to, the unborn child.

**(C)** If the person engaging in the conduct thereby intentionally kills or attempts to kill the unborn child, that person shall instead of being punished under subparagraph (A), be punished as provided under sections 1111, 1112, and 1113 of this title for intentionally killing or attempting to kill a human being.

**(D)** Notwithstanding any other provision of law, the death penalty shall not be imposed for an offense under this section.

**(b)** The provisions referred to in subsection (a) are the following:

**(1)** Sections 36, 37, 43, 111, 112, 113, 114, 115, 229, 242, 245, 247,248, 351, 831, 844 (d), (f), (h)(1), and
(i), 924 (j), 930, 1111, 1112, 1113,1114, 1116, 1118, 1119, 1120, 1121, 1153 (a), 1201 (a), 1203, 1 365 (a),1501, 1503, 1505, 1512, 1513, 1751, 1864, 1951, 1952 (a)(1)(B), (a)(2)(B), and (a)(3) (B), 1958, 1959, 1992, 2113, 2114, 2116, 2118, 2119, 2191,2231, 2241 (a), 2245, 2261, 2261A, 2 280, 2281, 2332, 2332a, 2332b,2340A, and 2441 of this title.

**(2)** Section 408(e) of the Controlled Substances Act of 1970 (21 U.S.C.848 (e)).

**(3)** Section 202 of the Atomic Energy Act of 1954 (42 U.S.C. 2283).

**(c)** Nothing in this section shall be construed to permit the prosecution—

**(1)** of any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law;

**(2)** of any person for any medical treatment of the pregnant woman or her unborn child; or

**(3)** of any woman with respect to her unborn child.

**(d)** As used in this section, **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.**

**The Life At Conception Act**

SECTION 1. SHORT TITLE.

This Act may be cited as the `Right to Life Act'.

SEC. 2. RIGHT TO LIFE.

To implement equal protection for the right to life of each born and preborn human person, and pursuant to the duty and authority of the Congress, including Congress' power under article I, section 8, to make necessary and proper laws, and Congress' power under section 5 of the 14th article of amendment to the Constitution of the United States, the Congress hereby declares that the right to life guaranteed by the Constitution is vested in each human being. However, nothing in this Act shall be construed to authorize the prosecution of any woman for the death of her unborn child.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) HUMAN PERSON; HUMAN BEING- The terms `human person' and `human being' include each and every member of the species homo sapiens at all stages of life, including the moment of fertilization, cloning, or other moment at which an individual member of the human species comes into being.

(2) STATE- The term `State' used in the 14th article of amendment to the Constitution of the United States and other applicable provisions of the Constitution includes the District of Columbia, the Commonwealth of Puerto Rico, and each other territory or possession of the United States.

## 11. What can I do about it? I'm not an expert. Shouldn't I just give them my money and let them take care of it?

Answer summary: I will not turn down money, but "the experts" need more than money to handle this project. They need grassroots cerebral support. Frankly they need the "multitude of counsellors" which Proverbs 15:22 guarantees will cause "purposes" to be "established."

If you are looking at all these facts, requiring all this concentration to absorb and remember, and thinking "that isn't my calling. The experts are taking care of all this. All I need to do is send them a little money", think again.

The experts aren't taking care of this. They are too busy with projects they have already started, to study a new one they haven't heard of.

After all, "the experts" don't just have the task of studying a new issue for themselves. They have to study how to explain it to enough of the people who are so determined not to think about it that they send money to the experts to do their thinking for them, to inspire enough nonthinkers to keep sending money.

A prolifer will look at this Green Light and say "It must not be that simple, or I would have heard it from my leaders." A prolife leader will look at this and say "It must not be that simple, or I would have heard it from my lawyers."

A prolife lawyer will look at this and say "If I am the first lawyer to endorse this, news reporters will come after me with criticisms from law professors who haven't even read my arguments. I will need answers to every possible objection, before I sign my name to it, and the more airtight arguments I present, the less they will be reported, because Reporters from Hell don't like to report that abortion is lawless. Plus there is the principle guiding issues which judges don't like: 'if nobody is saying it, nobody will notice if we ignore it. Therefore it is not legally true.'"

So I send him answers showing that no credible objection to these plain, irrefutable facts is possible. Articles. Briefs. But of course, it takes a lot of time to read and think about all that, and he has to do it pro bono because I have no money to pay him, so it takes a few months before he can get to it, after which time he is unlikely to remember it.

Is it possible for a "member of the species homo sapiens" to be offered exactly what he has been praying for, for years, and refuse it, because of the trouble it takes to open it up to see if it is real? I don't know. Maybe so. People even turn down God's offer of Heaven.

The very prolife leaders and Congressmen most intent on getting the 2004 law passed, promised that the law would not undermine legal abortion. Why? Did they say that to get Democrat votes? If so it didn't work. During House debate on the law, not one Democrat believed them. See the 2004 Congressional Record of House debate on Laci's Law, with analysis. www.Saltshaker.US/Leach2010/CongressionalRecord.pdf.

Republicans made the promise dogmatically, though with no legal reasoning, even though not a single Democrat believed them but insisted the opposite.

In other words, if we ask prolife leaders and Congressmen, who made those promises in 2004, to acknowledge that the 2004 law created the legal green light for state legislatures to criminalize abortion which they promised would never happen, they will have to choose between their reputations and the lives of millions of unborn.

Reputations alone wouldn't be on the line, but also credibility. Prolife politicians throw away the credibility they need to help the unborn in the future, if they admit how much they lied in the past.

Fortunately many of them are women, who are allowed to change their minds. They could

dismiss their shift by saying that 10 million corpses later, they have had time to reflect on what the Democrats declared, and have concluded the Democrats were right after all.

That might be the hardest thing to admit.

But that will be very difficult since these prolife leaders are the exalted legal experts on the subject, and they insisted the laws would not undermine abortion throughout vigorous debate during which Democrat legal experts could not more strongly have insisted the 2004 law was a serious threat to legal abortion.

For these reasons, not for legal reasons, any move to proceed through the first Legal Green Light may have to proceed without the involvement of the prolife leaders and Congressmen who were in place in 2004.

The dilemma is tragically unnecessary. Even if the Congressional Record proves prolife leaders and Congressmen deliberately and monumentally lied in 2004, as my analysis indicates, there is no Biblical reason not to admit it now, and allow millions of lives to be saved now.

In the first place, it wouldn't be that spectacular an admission, since not one Democrat believed the lie back then, as the Congressional Record makes indisputably clear.

In the second place, we're talking about Washington. It would be a greater scandal for a congressman to have to admit that he was honest.

In the third place, the Bible agrees with the FBI, the CIA, local crime investigators, prisoners of war, and persecuted Christians, that when you are dealing with evil people who will use your honesty to murder the innocent, lying can be righteous, and telling the truth can be wicked. See www.Saltshaker.US, click "Bible Studies", then "When is it Righteous to Lie?"

The natural human resistance to a "new idea" is so immense, that Stopping Legal Infanticide by Christmas (SLIC) is going to take tremendous organization, volunteer talent, wisdom, and money.

Will you help? Will you contribute money? Time? Will you help with a website? Post news on Twitter or Facebook? Contact prolife lawmakers, leaders, and lawyers?

If you don't act, the messy solution is to present these arguments in a criminal prosecution of violence against an abortionist or his property. The Necessity Defense, found in every state, says an action which normally would be a crime is not, if it prevents a greater harm, like abortion, than the lesser harm that it causes. The 2004 arguments establish that abortion is a legally recognizable great harm.

The trial documents, with links to the other two briefs filed before the Kansas Supreme Court, are listed with summaries and explanations at www.Saltshaker.US/Roeder.

This article addresses only the legal arguments regarding Roe's "collapse", and how that affects a legislature's restriction of abortion, or the use of violence to save many lives. This article does not address the Biblical arguments, or the much murkier "moral" arguments discussed with reference to no legal or Biblical authority but only the current opinion of society. I address those issues in two articles at www.Saltshaker.US/AmericanIssues/Life/Answers.htm and .../Answers2.htm.

## The triple whammy that we are really up against.

Adult "members of the species homo sapiens" strongly resist opening up the answer to their own years-long prayers, because God has a way of sending His best stuff by some of His least eminent delivery boys, which makes it take too much faith in what their eyes are telling them to verify whether it is real, while "the whole world" accuses them of "seeing things."

Christians make a calculation about how much righteousness we can sell the world, beyond which trying to sell more will turn the world too firmly against us to accomplish anything.

Christians justify failure with Theologies of Failure like "Duty is ours, results are God's", or "we are not going to compromise with the pure goal of saving all lives, which we have no strategy for reaching, by supporting the goal of saving some lives, just because we can."

**Doubting your own eyes when "the whole world" says you are "seeing things".**

Unfortunately, adult "members of the species homo sapiens" are very slow to believe simple, obvious, irrefutable facts, if they are different than everyone is saying. Or, in other words,

1 Corinthians 3:18 You should not fool yourself. If any of you think that you are wise by this world's standards, you should become a fool [by this world's standards], in order to be really wise. **19** For what this world considers to be wisdom is nonsense in God's sight. As the scripture says, "God traps the wise in their cleverness"; (GNB)

**The Politician in all of us.** There is a political calculation we all make, which keeps us from moving those mountains Jesus promised.

We make a calculation about how much righteousness we can sell the world, beyond which trying to sell more will turn the world too firmly against us to accomplish anything. We restrain our words to what we calculate our audience will tolerate. We compromise between what we know is right – what reality demands, and what we think ignorant people will allow us.

For the sake of accomplishing something rather than nothing, we publicly condemn those who try to sell more, lest our association with them keep us from accomplishing anything.

We assure news reporters we are not "extremists" or "fanatics" like those others. We understand that asking for more than is possible will distract from getting what is possible.

"Moderates" are embarrassed by "fanatics", even though the "fanatics" help them look "moderate" or "mainstream" - without the "fanatics", the "moderates" would be the most "extreme".

It is true that general apathy limits what it is realistic or us to ask. To realistically aim for more requires a lot more public involvement and interest. But it is also true that one way to generate a lot more public involvement is to articulate a much more exciting goal.

Except that too exciting a goal is met with incredulity because it isn't what "everyone" is talking about, and the circle begins anew.

So the usual procedure is for a few people bursting with vision to declare the whole of it, accepting upon themselves labels like "fanatic" or "extremist" from the very people they are trying to help, until over tragic years those voices grow into a mainstream so that people calculate they really can ask for that much.

Unfortunately, this works whether or not the "fanatics" are on the side of truth or of nonsense, because of the tendency of human beings to judge truth not by evidence but by how many proclaim it.

That is why it is difficult to reason with Americans in this generation. One needs true facts and sound logic to avoid being legitimately dismissed, but the soundest reasoning only half interacts with another human being's logic, and half interacts with a calculation he has made.

If a conclusion is "unacceptable", evidence that it is true is irrelevant.

So what is really needed is a fundamental shift in the way Christians reason with one another. Which is even more "controversial" than merely ending legal abortion. Some ideas from Scripture are found at www.Saltshaker.US.

I submit that when Christians refuse to acknowledge what is true on the ground that it is thoroughly unacceptable to liars, Christians make a decision to not let their Light shine on darkness.

**Theologies of Failure.** *"Duty is ours; results are God's."* - John Quincy Adams.

*"We are not called to be successful, but faithful."* - Prolifers, especially Third Party supporters where being successful is particularly unlikely.

Does this mean that whatever we do is the extent of our "duty", and God is obligated to make up the difference between that and whatever actual success requires? Does this mean that we are called to only take some action that strikes us as "pure", without the foggiest concept of or even interest in an actual strategy for success, and having done something "pure", (like blast some less "pure" prolifer), we are done?

Can our "duty" be over, before our Mountain has moved? In the words of James 2:15-18, are we done after we say a prayer, before we have taken whatever action is in our power to take, Proverbs

3:27, towards that for which we prayed?

## 12. Can God bless our involvement with a law that saves only some unborn, but not all of them? Does God bless compromise?

Answer summary: Christians should not construct ethical positions except on a foundation of Scripture, which ordinarily is forgotten during discussions like this. "Compromise" is not a word from the Bible. 1 Samuel 8 is an example of God compromising with His People. Picketers and sidewalk counselors believe it is better to save some than none. A "pure" law that will save all, with no strategy for passage, will help babies less than a law that will save some, with a strategy for its passage. Especially if, after passage, it will be challenged in court, and amici briefs arguing 18 U.S.C. § 1841(d) can pressure courts to acknowledge *Roe's* "collapse", which will save all!

Ask picketers and sidewalk counselors that question. They save only a fraction of the babies carried past them to their cruel deaths. But all of them that I have talked with think it is better to save some, than all.

A way to save all of them might be to shoot the abortionist, or at least burn his building, but who wants to do that? Or, who wants to tell a sidewalk counselor, "I won't associate with you, because you didn't save all of that abortionists' victims – you only saved some of them"? If we don't do that, why do we tell a lawmaker we won't associate with a law that only saves some babies?

Of course, the whole point of this article is to turn that law, designed to save only some babies, into a hammer for nailing shut legal abortion's coffin. Can we pass by such an opportunity to end this scandalous infanticide, in the name of "remaining pure" and not "compromising"? How Orwellian such language becomes!

*"No compromise."* Amazing how much theology Christians invest in this word, considering it is not found in the Bible and no verse is cited to support the assumption that compromise is always evil.

2 Corinthians 6 urges separation from idolatrous orgies. 1 Corinthians 5 acknowledges the necessity of generally interacting with wicked people, but keeping the distinction clear when a wicked person claims he has his ticket to Heaven too.

God "compromises" all the time by giving men, instead of angels, authority over men. God "compromises" between His Will and our will, by answering our persistent prayers, even when it is clearly not necessarily God's Will, according to Luke 11:8. The classic example of that was 1 Samuel 8.

I submit that it is better to save lives than to be "pure", when someone's notion of "purity" and "not compromising" is to oppose legislation that might pass and save some lives, and instead to support legislation that would save more lives if it ever passed but where there is no strategy for ever passing it.

Especially when a law that will save some lives will face a court challenge, in which 18 U.S.C. § 1841(d) can be argued through amici briefs with the goal of not just saving that law but ending all legal abortions!

## 13. What is the author's legal background?

Answer summary: I am not a licensed attorney. But God has granted me some interesting endorsements.

# Author's credentials: I am not a lawyer, but here are some endorsements

"Incredibly elaborate well thought out document" was the description of my brief by criminal trial author Stephen Singular, talking to the anchors of "In Session" (successor to "Court TV"). He was talking about my pro se trial brief written for and submitted to the Court by high profile prolife defendant Scott Roeder. (Watch http://youtu.be/EMNHhayn22c) The brief itself is at www.Saltshaker.US/Scott-Roeder-Resources/Brief4Roeder.pdf (At the 2009 Wichita trial, In Session anchor Jean Casarez told me personally that my brief was the reason the judge allowed evidence of the Involuntary Manslaughter defense.)

The trial documents, with links to the other two briefs filed before the Kansas Supreme Court, are listed with summaries and explanations at www.Saltshaker.US/Roeder.

Two (count 'em) TWO 60-day extensions of time were requested by the U.S. Justice Department headed by Attorney General Janet Reno to respond to the pro se Supreme Court brief I wrote with Regina Dinwiddie in 1995. Regina was the first person charged under FACE (Freedom of Access to Clinics). It was over an injunction against her to stop talking into her bull horn (portable microphone and amplifier) outside murder offices, I kid you not! The brief is posted at www.Saltshaker.US/AmericanIssues/Life/DD-1.htm. When the Justice Department finally submitted their brief, it was remarkably unremarkable, but by that time the Court had accepted another prolife case about bubble zones for picketers, much narrower in scope, which did not strike at the heart of Roe as ours did, and no one expects SCOTUS to accept more than one prolife case in a single term.

"...your brief...appears to be good...You do a good job of setting forth the law.", Bill Kurth emailed me in 2002. Kurth, of Carroll, Iowa, is an attorney who used to grade bar exams, and who once headed up an Iowa arm of the Rutherford Institute. He was responding to my explanation of how the Iowa legislature could end legal abortion and survive a court challenge, by amending Iowa's version of the Necessity Defense, called "compulsion" in Iowa, Iowa Code 704.10. The plan is at www.Saltshaker.US/AmericanIssues/Life/Compulsion%20Amendment.htm I published it, along with these endorsements, in a campaign newspaper; I was an Iowa statehouse candidate.

"If this passes, it could facilitate the closing of every abortion clinic in Iowa." That was the response to the same plan, of Chuck Hurley, a home schooling, Bible-quoting lawyer who founded and headed the Iowa Family Policy Center, (now called the Family Leader), Iowa's branch of James Dobson's Focus on the Family, and who previously headed the Iowa House Judiciary Committee:

The same initiative got this response from Joe Scheidler, who heads Prolife Action League in Chicago, and was a defendant in the 16-years-long NOW vs Scheidler case before the Supreme Court as of 2002, said this about my initiative:

"There's a private swimming pool not far from our office with a 'no trespassing' sign on it. But if I saw a toddler thrashing around in the water, I'd jump the fence and try to save him. That's the necessity defense. It sets aside the letter of the law for the spirit of the law. In any other situation besides abortion, the necessity of trespassing to save lives would be accepted in a flash. But the so called 'right to privacy' has blinded our judges. But if you present the facts of the humanity of a child to a jury, they are much more likely to accept the reality of the defense.

"The Necessity defense was our legal ace in the hole from the earliest days of clinic blockades. One of the major reasons we allowed ourselves to be arrested was to try the necessity defense. It is still law, which presents a fact issue to the juries. Anything that makes that clear will be a powerful tool. We should have kept our focus on this defense, but we haven't, so today most lawyers laugh if you bring it up. But a lot of water has gone over the dam since then, from cloning to the sale of baby body parts. The public may be ready to see the defense tried now. Public education on the child's humanity is crucial. That is why this initiative to spell out the necessity defense is valuable even before it is passed.

It won't work if you don't try, and I am willing to help."

Text of radio ad for Dave Leach's campaign for State Representative May, 2012:

My name is Dave Leach. I hope you will elect me to the state House June 5. My website, saltshaker.us, lists many issues for which I propose solutions.

There is one issue whose continued existence is just crazy: Abortion.

It's just crazy to think we have to wait until Roe v. Wade is overturned before the Iowa legislature can outlaw abortion, when it is Roe v. Wade itself which authorizes us to do that.

Roe said what must be said for legal abortion to end, and over 8 years ago, federal law said it. Now the unborn are just waiting on prolifers to bring a case so courts can address this new legal reality. The perfect case would be a state law against abortion, defended in court by the state's attorney general.

Please: go to Saltshaker.US, study this opportunity, learn what you can do, and become a partner in saving lives. Paid for by Partners for Dave Leach.

Posted on Youtube at http://youtu.be/vSU1nB_qAIw

**Continued from page 8: my experience with abortion law**

The laws of every state authorize individuals to stop a murder in progress, with whatever force is necessary, often including lethal force. That is, if the victim targeted for murder has been born. These laws are generically called "the Necessity Defense". There are minor variations from state to state; Florida, where two abortionists were shot, even has "justifiable homicide": it is lawful even to kill someone, in order to keep that person from killing someone else.

Paul Hill raised that defense after he shot John Britton, but as judges typically do in such cases, the judge simply did not allow the jury to know the defense exists, even though its "comparison of harms" issue (whether the harm of slaughtering 30 human beings a day outweighs the harm of killing the man running the slaughter) was the only contested issue of the trial, and it was a fact issue (juries are supposed to be the "judges of the facts").

When FACE was enacted in 1992, with its notoriously disproportionate penalties which punished sitting in front of an abortion door twice with about the same jail time as shooting an abortionist, the sit-ins ended and the shootings started.

As of that time, Operation Rescue reported that about 60,000 prolifers had been arrested for blocking abortion doors. Most were Christian. Most argued the Necessity Defense in court.

But after the first shooting, Operation Rescue changed their masthead which had quoted Proverbs 24:10-12 and had said "If you believe abortion is murder, act like abortion is murder."

Operation Rescue never said the Necessity Defense doesn't apply to violence against abortionists, but their public condemnation of it implies they changed their mind about it.

But it does. The laws have not changed. Especially in Florida.

But to even say, publicly, that abortion is so serious that stopping it is justified, became a much more serious attack on the legitimacy of abortion, after the first shooting.

I am a case study of the cost of asserting, publicly, that unborn babies are "persons in the whole sense" in *every* situation.

I'm not sure how much my convictions *themselves* scare anyone. But the cartoon made out of my positions by news reporters scare people. They would scare me if I didn't know myself better. Even some of the people who understand my positions think I have no political sense because I state them where news reporters can twist them in the wind – as if there is some place a Christian can state the truth where it is safe from being mangled by liars!

For example, here's what a liberal blogger wrote the day my candidacy for 2012 was posted on the internet, March 15: jdeeth.blogspot.com said "Republicans who don't think murdering doctors is morally justified can vote for Patti Branco in the primary instead."

Another charge is that I "advocate" murdering doctors.

What truth does that twist? Analysis is not advocacy. I analyze what American law says, and put it in legal briefs exposing the technical legal "collapse" of abortion. Before 2004 my briefs appealed to the Necessity Defense, and the supposed right of an American to have the sole contested issue of his trial decided by a jury. In those briefs, I defend people charged with violating American law. The people who read my briefs are judges. I don't "advocate" that judges go out and shoot abortionists. Later, news reporters ask me to put it all in 20 words, of which they report 2. I report to them what law says. It is they who equate "defending" with "advocating".

The very same legal arguments of mine which jdeeth characterizes as "murdering doctors is morally justified", criminal trial  author Stephen Singular, talking to the anchors of "In Session" (successor to "Court TV"), called "incredibly well thought out."  (Listen to http://youtu.be/EMNHhayn22c) For more endorsements, see #13.

Do you still believe unborn babies are human persons who ought to be protected as much as any adult? Do you still believe unborn babies are "persons in the whole sense"? Do you believe it firmly enough to pay the cost of saying it publicly?

Of course the cost is but a millionth of the cost of being an unloved unborn baby. But it is steep enough that only 20 prolife leaders across the nation were found in 1993 to sign that petition.

My position on this issue is the one thing for which I am best known by Republicans with long memories in Des Moines, which more than anything else kills mainstream party support, placing whether the unborn are "persons in the whole sense" squarely on the ballot whenever I run. The unborn always lose, when I represent them on the ballot, and I have been told often enough that precisely what makes me a loser is that "persons in the whole sense" thing applied to defending babies physically.

But even if it were true that I personally "advocate" violence to save lives, as opposed to merely reporting what American law and Proverbs 24:10-12 advocate, (which no one bothers to refute), society tells me not to talk about violence against abortionists, while society honors women who not only talk about, but kill, their unborn babies! And you think it is *me* who is controversial?!

Could it be the real reason I am labeled "controversial" is that my insistence that legal abortion has legally "collapsed" threatens this "honor" which society gives aborting, voting women?

In other words, the issue is: do you believe abortion is so serious that physically stopping it is justified? And that saying so is just saying the truth, against which there ought be no accusation in America, the land of the Free?

**History of What Works, to Save Lives**

There have been four epochs of what actions individuals have been able to take to save unborn lives. I am not talking about the incremental legislation supported by large prolife groups, as important

as that is too. I am talking about steps individuals can take to directly, physically intervene to shut down infanticide. Understanding these epochs may help you understand the context in which the media cartoon of my positions evolved.

1973-1978, one could block abortionists' doors and get off in court, until courts saw that allowing defendants to present evidence of when life begins persuaded juries, so courts stopped it. The only reason for disallowing this evidence was that abortionists were losing.

This shift by courts is documented in "Necessity as a Defense to a Charge of Criminal Trespass in an Abortion Clinic", 48 U.Cin.L.Rev. 501 (1979), in a footnote on page 502. The Cincinnati Law Review footnote analyzes the case of Ohio v. Rinear, No. 78999CRB-3706 (Mun. Ct. Hamilton County, Ohio, dismissed May 2, 1978). You can read my summary of the issue at www.Saltshaker.US/AmericanIssues/Life/CompulsionAmendment.htm.

1979-1992, one could block abortionists' doors with little hope in court, but sentences were light, so that hundreds, or thousands, blocking doors, could shut down infanticidists as long as they were willing. Until Congress passed a dumb law that increased the penalties for blocking a door twice to about the same as burning the door down, or shooting through it. The law is called FACE, Freedom of Access to Clinic Entrances. The law is found in the U.S. Code at 18 U.S.C. §248.

1993-2004, about the only way left to save thousands of unborn lives was to shoot an abortionist. Sitting in front of a door to close the abortionist for a few minutes, followed by decades in jail, wasn't a good deal for the prolifer or the babies. Seven abortionists were shot and killed during this decade. Thousands of lives were saved with each shooting, an obvious fact which nervous prolife leaders inexplicably denied. George Tiller said on his website that he had murdered 60,000 babies during his bloody career. (I can't remember the exact words he used.) At that rate, in the three years and 10 months between his death by Scott Roeder May 31, 2009, and the opening of his old building for abortion once again in April 2013, Tiller would have killed what, 6,000 more?

1993 was when I signed the Defensive Action Statement. As I said, the Defensive Action Statement was actually a statement about the legal elements of the Necessity Defense. That original version, along with my 2009 revision, is at http://www.saltshaker.us/Scott-Roeder-Resources/DefensiveActionStatement 3rdEdition.pdf. In 1993, saving thousands of unborn lives had been criminalized, but only to the extent courts were able to keep juries, the "triers of fact", from weighing evidence of the sole contested fact issue of any abortion prevention trial: "are unborn babies human beings?"

Later I made a series of videos to explain the denial of the right to trial by jury when the jury, the "triers of fact", are not allowed to know the existence of the only contested fact issue of a case: see the "Trial By Jury" 5-part series at www.Saltshaker.US/Scott-Roeder-Resources.htm

Notice also the difference between asserting a legal fact about an action that has been taken, and "advocating" that anyone else take that action in the future. It's the same as saying a missionary was justified in smuggling Bibles into Russia, without your justification being taken as an appeal to others to follow in the missionary's steps. Or saying it is good to run for President, without being understood to want everyone to run for President. Even Paul Hill, who was executed in 2003 for killing an abortionist in 1994, very clearly underlined this distinction between "justifying" and "advocating".

And I will add that my concept of "justifying" has nothing to do with some vague "moral justification". My position is that American law, if followed, would lead to acquittal in all abortion prevention cases. I don't just say it off the cuff as a personal opinion, but I have written extensive briefs in court cases that make those arguments. My briefs for Scott Roeder are at: http://www.saltshaker.us/Roeder. An earlier Supreme Court brief I wrote for Regina Dinwiddie, in the first FACE prosecution (for using a bullhorn!) is at http://www.saltshaker.us/AmericanIssues/Life/DD-1.htm. When Regina called the Supreme Court Clerk of Court office, to inquire about the highly unusual 60-day delays, the clerk seemed familiar with her case, which is in itself highly unusual. The delays occurred during the period the Court was considering another prolife case, which it eventually

heard. The other case was far narrower in its scope, involving only picketting, while our case went to the heart of the mistakes of Roe v. Wade. Regina concludes from all this that the Justice Department was afraid of letting her case before the Court, so they delayed the Court's ability to accept the case until they had already accepted the other case; and no one expects the Court to hear more than one prolife case in a single term.

2004-present, Congress enacted a law defining all unborn babies as "members of the species homo sapiens". The law is 18 U.S.C. §1841(d). This directly invokes Roe's "collapse" clause, ending abortion's "constitutional protection" and invoking the 14th amendment, no longer to protect a woman's "penumbral" rights, but now to protect the right to life of the unborn child. (Roe claimed the right to abortion is found in the "penumbra" of the Constitution, meaning when you partially obscure the light of the Constitution, then you can see the right to an abortion.)

Before 1993, blocking doors with no violence and little defendant cost was a fairly **"clean way"** to bring such cases. From 1993-2004, thanks to Congress, the only way prolifers could bring such a case that fundamentally challenged Roe (as opposed to reviews of state laws that nipped abortion around the edges) was the **"messy way"** of force against abortionists. The argument in court was that the Necessity Defense justifies actions that are less harmful than the harm they prevent; the "harm" of abortion is a "fact issue"; juries are "triers of fact"; so therefore juries should be allowed to see the defendant's only defense regarding the only contested issue of the trial, a fact issue. But in 2004 Congress opened up the **"cleanest way"** yet: any legislature, without even having to suggest Roe was wrongly decided in the first place, can now thoroughly criminalize abortion, and point out to the court later that the 2004 law triggered Roe's "collapse" clause.

> However, to the the extent prolifers are too busy to grab the opportunity God has given us to end all abortions by a "clean way", the "messy way" remains a quick, though personally risky way to save thousands of lives. And it remains a way with strong legal arguments in its defense which have never been squarely addressed by any court.

I learned of this new defense not in 2004, but in 2009 as I was helping prepare a brief for the Scott Roeder case. These arguments are now embedded squarely in the Roeder case. As of April 1, 2013, the 9th anniversary of Congress' establishment of the humanity of the unborn, the "state" has let 4½ months go by since the Appellate Defender's 2nd of 3 possible briefs, without responding, suggesting "the state" is tired of briefing and wants to get on with the oral arguments; or maybe "the state" just thinks they can do nothing for 8 months, not even asking for an extension of time to respond, and the Kansas Supreme Court will wait patiently.

I began pleading with the most prolife Republican lawmakers in Iowa to jump on this new opportunity early in 2010, and I still await the time it takes for busy minds to digest new opportunities – even opportunities for which they have been, and are still, fervently praying!

It is clear to me that in any state where prolifers can stop opposing each other enough to support this initiative, and get their state legislature to pass it, courts will be unable to stop it, and legal abortion will be history.

Therefore, if anyone who reads this cares enough about saving thousands of lives to take up a gun and go find an abortionist after which you will sit in jail the rest of your life with very limited opportunity for further prolife work, I challenge you instead to not be satisfied to save thousands of lives, when you can help stop all of them.

*Not an excuse. A promise.* Don't misunderstand me. I am not proposing that anyone who cares enough to save lives with a gun, lay that aside for an easier path. I do not honor giving up a way to save thousands of lives, to pursue a strategy with no realistic hope of saving any lives. Nor do I honor substituting bombastic talk for strategic action. I intend to sacrifice just as much for the sake of this

goal as if millions of lives depended on it, which they do. But I am not satisfied with mere self sacrifice. I am focused not just on marching into battle, but on aiming well. I aim for victory. I aim mountains into seas. If I thought all my self sacrifice over the years were to accomplish nothing for the unborn, I would consider much of my life wasted.

Obviously I have little wisdom, less power, and no control over such great goals. So I preserve my sanity with God's promises. My perseverance is sustained by hope that God will answer my prayers as He says, and that I will see victory "with my own eyes", Psalm 91:8.

Of course, there theoretically exists some point at which even I will say "the mental inertia of prolife Christians is too great. It will take too many more years at this rate, before they will have the time to outlaw abortion. If I want to save lives before I die, I will need to take action myself, the messy way." However, at the age of 67, with no training or experience with guns, that seems about as likely as teaching termites to talk.

Don't let me down, prolifers! Take the opportunity God has given you!