TESTIMONY of ERIC R. NORDMAN (Attorney-at-Law)
In Support of Heartbeat Bill

In its landmark 1973 decision *Roe v. Wade*, 410 U.S. 113, the United States Supreme Court, on pp. 156-157, acknowledged that:

"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." (Emphasis added.)

While the Supreme Court in *Roe v. Wade* acknowledged that its decision was based on the assumption that "personhood" of the unborn child could not be established, it admitted that if it were so established, the case for abortion "collapses".

The Court arbitrarily divided pregnancy into three "trimesters," holding that during the first trimester the state had no legitimate interest in restricting abortion, that in the second trimester the state had SOME regulatory interests, though limited, and that during the third trimester, when the fetus was deemed viable, the state may restrict, or even prohibit, abortion. During the second trimester, the Court left the determination of viability to the discretion of the expectant mother's physician.

Much has transpired since 1973. Medical science has advanced such that viability has been achieved at points much earlier than imagined. Moreover, medical science has established that a fetal heartbeat can be detected much earlier in pregnancy than observed in the past, and that the unborn child DOES experience excruciating pain during the abortion process. The unborn child is NOT "mere tissue" or "a part of a woman's body." Nor is it, as referred to in *Roe v. Wade*, merely "*potential life".* A fetus (an unborn child) is a living being, with his or her own unique genetic makeup, distinct from his or her father's, distinct from his or her mother's, and sensitive to pain.

In 1992, the Supreme Court replaced the antiquated and arbitrary "trimester" division with a straight determination of viability. *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 505 U.S. 833 (1992).

In 2007, the reality that a fetus is a living being was acknowledged in *Gonzales v. Carhart*, 550 U.S. 124 (2007) when, for the first time, the Supreme Court acknowledged, as a matter of *fact*, that a fetus is not merely a "potentially living" fetus, but a "*LIVING* fetus" from the time of a … *DETECTABLE HEARTBEAT."* (By the way, the word "Fetus" is Latin for "Little One", or, in the Latin Vulgate, "Little CHILD.")

It is my contention that the 14th Amendment's declaration that no state may deprive any "person" of ***LIFE***, Liberty or property without due process of law may be applied to the unborn child if the state defines such a child as a "person." Clearly, the state has the power to declare an unborn child to be a person entitled to legal protection once a heartbeat is detected.