

February 27, 2004

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Most Rev. Roger J. Foys, D.D. - Personal
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Dear Bishop Foys:

On the front page of the February 13 issue of *The Messenger* appear glowing reports by the Catholic Conference of Kentucky, the Covington Diocesan Pro-Life Commission, and *The Messenger* Editor of the passage by the Kentucky House of Representatives, 88 to 5, of a fetal homicide bill which “does exactly what our Church holds - all life is sacred - and it recognizes the wrongfulness of someone taking the life of an unborn child, and holds that person accountable.” The article goes on to state that “that bill gives legal recognition to a fetus (the legal term for an unborn child) from the time of conception.”

Unfortunately, that is not accurate. First, one wonders why a Catholic newspaper editor uses the pro-abortion language “fetus,” when the actual bill itself described the child as “unborn child,” the favored and accurate Pro-Life description.

More importantly, however, the bill does not provide legal protection to the unborn child from conception but rather protects the protected unborn child as “*a member of the species homo sapiens in utero from conception onward, without regard to age, health or condition of dependency.*”

The immoral flaw in this bill is that it effectively defines as “nonpersons” the newly-conceived child from the time of fertilization until the time of implantation, thereby negating our arguments against the companion atrocities on human life (i.e., in vitro fertilization, chemical abortion, cloning, and human experimentation).

Simultaneously, this immoral bill, labeled now as “pro-life” by the Diocese of Covington, will enable those who consistently vote pro-abortion to deceptively present themselves as Pro-Life to the electorate.

The true Pro-Life bill has been stymied every year in the House Judiciary Committee, by its pro-abortion Chairman, who suddenly this year let out onto the Floor this pro-abortion sham. The reason why all the pro-aborts in the House voted for it is that it accomplished the strong pro-abortion goal of defining out of the human family newly-conceived children, before their implantation in the womb, which incredibly escaped the attention of the Catholic Conference of Kentucky, the Covington Diocesan Pro-Life Commission, and *The Messenger*.

Northern Kentucky Right to Life has been fighting this battle in the legislature for many years. Its president has given written testimony and oral testimony before the Judiciary Committee several times (copies enclosed) furnishing the legal basis for these issues, from briefs that he has successfully handled in the U.S. Court of Appeals for the Sixth Circuit and in the Kentucky Supreme Court.

True Pro-Life language defines the unborn child as *a member of the species homo sapiens, from the instant of fertilization onward, at every stage of human development, without regard to age, health, or condition of dependency.*

This bill, devised in the House by the pro-abortion operatives, effectively equated conception with implantation in the uterus, which of course is the fraudulent and unscientific fallacy propagated by the American College of Obstetrics and Gynecology in 1965 when it participated in this politicizing of a medical issue, by redefining conception as the implantation of a fertilized ovum. This was the game plan of the pro-death community, to cooperate with Planned Parenthood and others, in order to enhance and protect chemical abortion.

Notice a list of definitions of pregnancy enclosed, from traditional medical dictionaries, and even from Planned Parenthood physicians, all of which recognize that pregnancy of course begins with fertilization of the female ovum by the male sperm – except the political redefinition in 1965 by ACOG.

The fact that human life begins with fertilization, rather than implantation, is demonstrated further by the reality that some babies are conceived and developed and brought to full maturation and indeed birth without ever having reached the womb – a medical fact which demonstrates the ridiculousness of the political definition of ACOG, now adopted by the Kentucky General Assembly with this unfortunate legislation just passed. Two such cases were just reported this year in the *Washington Times*, one a baby boy who gestated for 37 weeks outside the mother's uterus before birth at Montreal's Sacre-Coeur Hospital on August 6, 2003, and the other at Pittsburgh, Pennsylvania, where the unborn child was discovered quite accidentally on CT Scan, 12 weeks after the woman had had a hysterectomy.

On the next effort of serious Pro-Lifers against cloning, in vitro fertilization, chemical abortion, human experimentation, etc., rest assured that we will be faced with not only the ACOG definition, but now in addition this legal definition passed by the Kentucky General Assembly, indicating that human life begins with implantation!

The whole purpose of our fetal homicide legislative efforts over the past many years has been to have a statutory precedent establishing the personhood of the unborn child from the instant of fertilization onward, which we know is biologically as well as theologically accurate. This would then expose the great hypocrisy of the unexplainable dichotomy that third parties cannot kill an unborn child, but the mother can. It is a person for one purpose and not for the other, just as Cetrulo's brief pointed out is true in Kentucky presently by judicial decision. An unborn child who is killed prenatally may sue for damages, but that same child killed in the womb cannot be the subject of a criminal prosecution! As Humpty Dumpty says, "Words mean whatever I choose them to mean."

In the meantime, Cetrulo and Summe attended the Oral Argument before the Kentucky Supreme Court in Frankfort on February 11, in the case of Morris v. Commonwealth, in which they had filed an Amicus Curiae Brief setting forth the Pro-Life position, seeking to reverse the much earlier Hollis decision described in the enclosed brief.

It becomes increasingly obvious that policies will only change with a change of personnel, and replacing them with people of more competence and greater moral commitment. The Catholic people of Kentucky, and indeed Catholic doctrine, were entitled to better representation than they got on this one by those identified above, who so foolishly played directly into the hands of the pro-aborts.

In this connection, we attach herewith the opinion of the Kentucky Supreme Court in Grubbs v. Barbourville Family Health Center, 120 S.W.3d 682 (2003), just published by the Kentucky Supreme Court in December of last year. NKRTL filed a Friend of the Court Brief, opposing the advocacy of the anti-life doctrines urged upon the Court, “wrongful birth” and “wrongful life,” which would hold physicians liable for damages for failure to recommend abortion to a pregnant mother carrying an unborn child who was later born with birth defects. The Kentucky Supreme Court, 5 to 2, wrote a Pro-Life opinion, with an even stronger Pro-Life concurring opinion written by Justice Donald Wintersheimer of Covington, rejecting the anti-life philosophy:

“Simply stated, the life of a child cannot constitute an injury and thus there can be no recognition of either a wrongful life or a wrongful birth claim. ...the paramount reason for rejecting a wrongful life claim involves the very dignity of the human person and the very sanctity of human life itself. It is basic to our culture that human life is precious. ...A claim for wrongful life must be rejected because it would definitely discriminate against disabled persons and could lead to a eugenic culture where the ‘unfit’ are made disposable. ...What ‘defect’ will the law recognize as compensable? Who will draw the line as to what is severe and what is not severe? Will physical as well as mental impairments be involved? It is obvious that many of the so-called disabled can and do have lives of immense value to themselves and others. ...To permit a claim for wrongful life or wrongful birth would undermine the proposition that all human persons, no matter their race, religion, or ability, are precious and worthy of respect.”

Over the past 25 years, as NKRTL initiated and successfully pursued several such Pro-Life initiatives – as a totally volunteer organization. There has been zero participation or help from the Covington Diocesan Pro-Life Commission, the Catholic hospital, the Covington Diocese itself, or its paid attorneys. In fact, several leading members of that law firm played public and prominent leadership roles in the election of the two pro-abortion governors who preceded our current governor, as well as supporting other pro-abortion candidates. Simultaneously during those periods, those agencies have actively advanced the pro-abortion cause as we have demonstrated previously. The diocesan law firm has consistently supported pro-abortion candidates for governor and other high offices (including most recently three months ago), the hospital had a pro-abortion policy and actually performed abortions, the Pro-Life Commission’s coordinator publicly endorsed two days before the election the leading chemical abortion advocate on the Northern Kentucky Independent District Health Department Board, a physician member on the PLC was passing out abortifacient pills, and the two just most recently named members of the Commission supported the pro-abort gubernatorial candidate, Chandler, just months ago, as we documented in a recent letter to you.

These facts are indisputable, and simultaneously incomprehensible. We beg your intervention to put the machinery of the Diocese of Covington at the service of life, in active cooperation with NKRTL and these multiple enterprises, and to put a halt to the active participation by Covington diocesan agencies in the advancement of the pro-abortion cause.

Most Rev. Roger J. Foys, D.D.
February 27, 2004
Page 4

The first such essential remedial steps would include the adoption and publication of a specific and comprehensive set of Catholic principles covering this entire spectrum of the life issues, a draft of which we have previously submitted to you.

Respectfully,

For the Northern Kentucky Right To Life Board of Directors,
by its Executive Committee

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