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COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
JUDICIARY COMMITTEE

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In re: House Bills 1361 and 1362

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Stenographic report of hearing
held in the Majority Caucus Room
Harrisburg, Pennsylvania

Thursday
November 12, 1987
10:00 a.m.

HON. H. WILLIAM DEWEESE, CHAIRMAN

MEMBERS OF JUDICIARY COMMITTEE

Hon. William E. Baldwin	Hon. Gerard A. Kosinski
Hon. John Barley	Hon. Allen Kukovich
Hon. Kevin Blaum	Hon. David J. Mayernik
Hon. Thomas R. Caltagirone	Hon. Paul McHale
Hon. Lois Sherman Hagarty	Hon. Jeffrey Piccola
Hon. David Heckler	Hon. Robert D. Reber, Jr.
Hon. Babette Josephs	Hon. Christopher R. Wogan

Also Present:

Hon. Dennis E. Leh
Michael Edmiston, Esquire, Chief Counsel
John Connelly, Esquire, Special Counsel
Mary Wooley, Esquire, Minority Counsel

Reported by:
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1 CHAIRMAN DEWEESL: Good morning, ladies and
2 gentlemen. My name is Bill DeWeese. And on behalf of Nick
3 Moenlmann, Minority Chairman of the house Judiciary Committee,
4 I welcome you to a public hearing on house Bill 1361 dealing
5 with the Abortion Control Act. We will have a series of
6 people testify before our Committee this morning indicating
7 a various number of points of view. I don't think I said that
8 correctly, but at least I tnik I'm smart enough to know I
9 don't think I said that correctly. All those points of view
10 will be expressed this morning on a very volatile subject.
11 As the inimitable Ronald Reagan once said, and I don't know
12 that I have ever quoted him before, during a presidential
13 debate. There you go again. Well, here we go again. After 12
14 years in the state legislature, this is my first opportunity
15 to participate in a skirmish. I think that the battle will
16 probably be preordained and maybe the war will be preordained
17 until we get it out of the Commonwealth or until we get to a
18 federal court. But nevertheless this is a skirmish. It is
19 my prerogative, as Chairman of this Committee, to at least
20 bring this issue to some focus.

21 I cannot believe that we are again attempting to
22 abrogate the rights of women in this Commonwealth, but
23 nevertheless we are. I don't come down in the middle of fair
24 game issues. I am either on one side or the other. Nobody
25 knows, nobody asked where I am on this issue. I did not

1 participate in a press conference because that is not my
2 echelon, at least this morning.

3 I would like to welcome a series of people on
4 several different sides of the issue. And as we commence,
5 Miss Susan Frietsche, the Legislative Director of the American
6 Civil Liberties Union of Pennsylvania will speak on behalf of
7 Janet Benshoff, the Executive Director of Reproductive Freedom
8 Project, ACLU nationwide, could not be with us due to travel
9 arrangements being made difficult. So, the Chair would like
10 to welcome Miss Frietsche. We would like to keep this hearing
11 moving. You will have ten minutes, Miss Frietsche. Would
12 you please at least summarize the points of view of Miss
13 Benshoff. Before you commence, would you please move the
14 switch at the base of the two microphones, thank you very much.
15 Bring them as close as you feel comfortable.

16 MS. FRIETSCHER: Thank you, Mr. Chairman. Thank you,
17 members of the Committee. As Chairman DeWeese said, my name
18 is Sue Frietsche, Legislative Director of the Pennsylvania
19 American Civil Liberties Union. I am here today on behalf of
20 my organization to present testimony that has been prepared by
21 Janet Benshoff, who is my organization's expert on reproductive
22 freedom. She is a graduate of Harvard Law School. Has been a
23 practicing attorney in the field of constitutional law for 15
24 years. Her particular area of expertise is privacy law,
25 particularly with regard to abortion, childbirth, sterilization

1 and other matters involving reproductive health. She has been
2 either direct counsel or been involved with over a 100 cases
3 nationwide, involving constitutional challenges to statutes
4 with provisions similar to the ones in House Bill 1361, 62,
5 63.

6 What I would like to do today, since she is not
7 able to be here, is present her testimony for you today.

8 CHAIRMAN DEWEESE: That is being distributed to
9 the members right now.

10 MS. FRIETSCHÉ: The Supreme Court has recognized
11 that the abortion issue, whether as a political matter or a
12 personal decision, raises profound moral, ethical and
13 religious concerns. In order to protect the conscientious
14 choice of individuals, as well as the pluralism integral to
15 our democratic system, the Supreme Court requires the state
16 to be neutral on this issue.

17 The bills before the Judiciary Committee abandon
18 any pretense at neutrality. Taken as a whole they represent
19 an attempt by the state to impart a wholesale ideological
20 agenda; which is that abortion is wrong, the state is right,
21 and individual conscientious choice is irrelevant. As former
22 Supreme Court Justice Powell stated in Bellotti versus Baird,
23 such sponsorship is "something we expect the state not to
24 attempt in a society constitutionally committed to the idea of
25 individual liberty and freedom of choice". The various

1 provisions of 1361 and 1362 are unconstitutional. But that
2 phrase is often used but very often not examined.

3 What does it mean that something is
4 unconstitutional? Does it just mean that courts will strike
5 it down, so the phrase has little meaning for legislatures?
6 No, absolutely not.

7 Legislators, no less than courts are guardians of
8 individual rights protected by the constitution. Disregard of
9 the ramifications of these bills on privacy rights, equality
10 rights, and free speech rights of Pennsylvania women,
11 families, and health providers, will breed disrespect for the
12 rule of law and for our constitutional system of government.

13 Although I cannot go into detail on each of the
14 criminal statutes before you, I would like to focus a bit on
15 the criminal mandatory parental consent requirements. For
16 over ten years I have been representing classes of over
17 hundreds of thousands of minors who seek and - may I add - need
18 access to confidential reproductive health care services.

19 In fact, it is not an overstatement to say this
20 section is a life or death matter. Some teenagers, literally,
21 will risk life before letting anyone know of pregnancy. Some
22 do die. One teenager in Mississippi refused to go to a
23 hospital because she knew they notified parents. She died.
24 Another teenager in Ohio shot herself in the stomach. A study
25 by the United States Centers for Disease Control, analyzing

1 case studies of women who died of self-abortion even after
2 abortion was legal concluded privacy - particularly from a
3 spouse or teenager from her family - is a critical factor
4 leading some women to these desperate measures and then to
5 death.

6 Last year I did a five-week trial in a case
7 challenging Minnesota's mandatory parental notification and
8 judicial bypass law. The law had been in effect since 1981 and
9 the trial record is the first comprehensive documentation of
10 the devastating impact such laws have on the minors and
11 families they purport to protect. I speak to you from my
12 experience, over a one-year period, talking repeatedly and
13 extensively with the minors, parents, physicians, psychologists,
14 counsellors, nurses, state court judges, public defenders and
15 court-appointed guardians who had been affected by or directly
16 involved in the implementation of Minnesota's law before it
17 was enjoined by the United States District Court in November.

18 Minnesota's law is one of the few such laws which
19 has been operating and widely enforced for a substantial
20 period. The Minnesota experience offers this Committee a
21 rare preview of what Pennsylvania can expect should the
22 proposed bill become law. I am certainly the only individual
23 testifying here today who can give you a picture of what will
24 happen and I therefore encourage the Committee to ask questions
25 freely. It makes me really regret Janet could not be here in

1 person.

2 The parental consent and judicial bypass law being
3 considered by this Committee will condemn those teenagers
4 least equipped to be parents to unwanted motherhood, poverty,
5 unemployment and limited education. Healthy families do not
6 need this law; 55 percent of minors will voluntarily share
7 their pregnancy and abortion choice with their parents. This
8 law will effect only the remainder, those who will risk family
9 crisis, physical abuse or a loss of financial and emotional
10 support if they turn to their troubled families rather than to
11 qualified health care professionals.

12 What choice does this law offer these minors? The
13 Minnesota experience indicates that these laws do not, in fact,
14 give minors a real choice. The court bypass procedure is not
15 a real option for them. The evidence is overwhelming that
16 only white, wealthy, educated, ambitious, resourceful older
17 teenagers will be able to navigate the complexities of a court
18 system. (It took me three years of law school to learn what
19 this bill asks an unaccompanied minor to do). Minors in
20 Minnesota - and those professionals who work with them -
21 describe the terror and distress caused by the prospect of
22 going to court. I ask you to think back to when you were 13,
23 14, 15 ... You are pregnant, or your girlfriend is pregnant,
24 would you have traveled from the western portions of this
25 state and gone to court to obtain a waiver, if you had only an

1 alcoholic, abusive parent or one incapable of considering
2 your best interests. Even if you would have, what about a
3 poor, high school dropout whose only experience with courts is
4 through the criminal justice system and juvenile delinquency?

5 In Minnesota, state court judges reported that
6 minors were so terrorized by having to discuss matters of
7 sexuality or other family secrets with court personnel that
8 they at times threw up in the courthouse, were shaking,
9 wringing their hands, sweating and more alone than they would
10 ever be in a doctor's office or clinic. Some need
11 tranquilizers when they return to the clinic to calm them down
12 from the experience.

13 Because getting through court is itself a test of
14 maturity, these minors will invariably be adjudged mature.
15 (MN and MA, 8000 minors; 98-99 percent of petitions granted).
16 After the trauma and delays of court, these minors will be
17 free to choose the confidential abortion which is their
18 constitutional right. But many more of them will already be
19 in the second trimester of pregnancy as a result of this law.

20 And what will happen to the many teens who are
21 unable to utilize the court bypass process because of
22 socio-economic factors beyond legislative control. Faced with
23 a choice between trauma in the courthouse and crisis at home,
24 the Minnesota statistics indicate that they will carry their
25 pregnancy to term, unwillingly and by default.

1 In Minneapolis, following the passage of the law,
 2 during the period of time in which the parental notification
 3 law was in effect:

	<u>Birthrates</u>		
	<u>1971-80</u>	<u>1980-84</u>	<u>Age</u>
6	2%	38.4%	15 - 17
7	-	0.3%	18 - 19

8 I do not need to elaborate on the tragedy of teen
 9 motherhood with which the state of Pennsylvania is all too
 10 familiar. I do want to stress, however, that this law will
 11 create a class system in which poor teens, many of whom are
 12 from the minority community, will be condemned to the
 13 socio-economic disadvantages of early childbirth and to a
 14 further limitation of life choices than they already have.

15 It is important to ask yourself, what would be
 16 accomplished by this law? The judge in Minnesota, after five
 17 weeks of trial determined that minors are not protected and
 18 communication is not increased because of the law. How can
 19 this Committee impose such burdens on minors for no
 20 demonstrable purpose? It is for this reason that all the
 21 major public health organizations in the United States have
 22 come out in opposition to these laws, including the American
 23 Psychological Association, the American Public Health
 24 Association, the American College of Obstetricians and
 25 Gynecologists, and the National Academy of Sciences.

1 In common law, in Blackstone's England, women and
2 children were lumped together and accorded lesser or no rights.
3 Section 3209 requiring paternal notice mirrors that thought to
4 be archaic.

5 I would urge you to reject Bills 1361 and 1362
6 which favor special interests over justice, fertilized eggs
7 over women, and politics over the constitution. They are
8 quintessentially sex discriminatory because they devalue
9 women's consciences, religious beliefs, and ability for
10 rational autonomous decision making. Vote against them. Such
11 a vote would be a vote for compassion, equality and individual
12 liberty. That is Janet Benshoff's testimony.

13 CHAIRMAN DEWEESE: Thank you. Her absence was
14 due to inclement weather. Her absence will obviate the need
15 for us to ask you questions. Thank you very much.

16 I would like to introduce the members of the
17 Committee.

18 REPRESENTATIVE PICCOLA: Could we ask one
19 question? She might be able to answer it.

20 CHAIRMAN DEWEESE: Go ahead.

21 BY REPRESENTATIVE PICCOLA:

22 Q What is the constitutional status of the Minnesota
23 statute that you just referred to?

24 A It was just argued last week and was struck by a
25 district court.

1 Q So, it is being enforced but it has not been
2 enjoined by the federal court?

3 A I understand it is not being enforced at the
4 present time.

5 Q It is not?

6 A That is right. It was in effect between 1981 and
7 1985.

8 REPRESENTATIVE PICCOLA: Thank you.

9 REPRESENTATIVE HAGARTY: Just another question.

10 CHAIRMAN DEWEESE: Yes, Miss Hagarty.

11 BY REPRESENTATIVE HAGARTY:

12 Q I'm confused. Didn't we pass this procedure in
13 the initial law and why are we considering it now? What
14 happened with the court?

15 A Yes. What happened was, the 1982 Abortion Control
16 Act, as you correctly remember, did contain a parental consent
17 provision which was similar but in some important respects
18 a little different from the one that is currently under
19 consideration, which in some ways I think is even worse. Even
20 more intrusive, even more burdensome to minors than the
21 original one. What happened was, the federal court held that
22 because of the procedures that a minor would have to go
23 through in order to get the court bypassed optioned the
24 regulations governing those procedures was so poorly done and
25 would impose such waste, such delays, such expenses and so

1 compromise her confidentiality that the minor basically lost
2 her right to a confidential abortion through the court bypass
3 system.

4 Now, this Bill 1361, Representative Freind
5 attempts to clean up the mistakes that he made in the 1982
6 Abortion Control Act and to eliminate the problems that caused
7 the courts to strike that section down. We don't believe he
8 has in fact done so.

9 CHAIRMAN DEWEESE: Before we move to the next
0 person to testify, I would like to introduce the members of
1 the Committee. Tom Caltagirone from Berks to my far right;
12 Allen Kukovich from Westmoreland; Chief Counsel of our
13 Committee, Mike Edministon; Special Counsel, John Connelly;
14 Dave Heckler from Montgomery County; Kevin Blaum from Luzerne;
15 Jeff Piccola from Dauphin; Lois Hagarty from Montgomery; and
16 Babette Josephs from Philadelphia. Are there any other
17 members in the audience that I haven't seen? Mary Woolley,
18 Chief Counsel for the Minority. Representative Bill Baldwin,
19 soon to be Judge Baldwin.

20 Thank you, Miss Frietsche.

21 The Committee would like to welcome Dr. Bob
22 Phillips, Fogel Foundation, Human Sexuality Institute,
23 Washington, D.C. Good morning, sir.

24 DR. PHILLIPS: Good morning and thank you for the
25 invitation to testify on this bill. I was asked to come

1 primarily to introduce the next witness, who is Truddi Chase,
2 who was victimized by her stepfather at the age of two to the
3 age of 16 in a very horrible way. And have been asked to talk
4 about the dynamics I have seen in my clinical practice working
5 with various aspects of sexually abusing families. Also
6 working with rape victims.

7 I have spent 23 years working with people in a
8 number of settings. First of all, as an ordained clergyman,
9 American Baptist churches and then as a university professor,
10 University of Maryland in the College of Art and then as
11 marriage and family sex therapist.

12 Over these years, one of the things that has been
13 impressed upon me, working with people, is the complexity of
14 these kinds of issues. Also, the complexity of the dynamics
15 of folks who have suffered the kind of intrusion and trauma
16 that comes from both sexual abuse and from rape. I work at
17 the present time with sexually abusing families. I've done so
18 for the last 12 years. I also work with both victims of rape
19 and also rapists. I have been able to see the problems from
20 many different directions.

21 One of the things that probably will create many
22 problems for women who will have to, under the provisions of
23 this new law, report, is that an important part of the dynamics
24 of both sexual abuse and of rape on the part of the person who
25 has been victimized is denial. The person who has been

1 victimized by the victimization is most often feeling very
2 isolated. The whole situation that they find themselves in is
3 unreal. There are a lot of myths. I'll take sexual abuse first.
4 There are a lot of myths about sexual abuse and one of the
5 ones that I discovered very early on is that sexual abuse
6 victims start their victimization, are victimized at an early
7 age. The usual age of onset is between eight and ten years
8 old. So, we are not talking about seductive teenagers. We
9 are talking about children whose abuse begins pre-pubertively
10 when they are quite young. And by the time they would be into
11 puberty and therefore liable, if sexual intercourse is part of
12 their abuse, liable to become pregnant and conceive have become
13 part of a very complex process.

14 Most often in the sexual abusing families that I
15 have worked with, and at the present time we probably, my
16 partner and I, have probably worked with five or 600 cases of
17 sexual abuse. It is not the kind of abuse where the father,
18 stepfather, living partner or brother is a brutal abuser.
19 Very often, and you need to suspend your imagination here,
20 most often the sexual abuse takes part in a context of a
21 loving relationship. This may be the only person in the
22 child's life who has been nurturing, has taken care of them,
23 has given them affection and attention. And this creates a
24 most profound violation on one hand, but also a most profound
25 confusion.

1 If a person, if a young woman becomes pregnant,
2 and this could be anywhere from the age of 12 onward, she is
3 caught in a tremendous dilemma. Number one, first to admit
4 that what is going on is abusive. I have worked with the
5 women who have taken 30 to 40 years to really come to grips
6 that the sexual activity was abusive because they could not
7 resolve this dilemma of a loving person doing these things to
8 me. So, denial is a very important part of the dynamics
9 there.

10 Also, if she were to report this special person, she
11 knows that the authorities would be involved and her greatest
12 fear would be destruction of her family. This is why sexual
13 abuse is one of the most unreported crimes that we have. The
14 numbers and cases of sexual abuse go far beyond the reported
15 cases. At a very conservative estimate, it is 20 percent of
16 our population suffer some kind of sexual abuse. So,
17 therefore, we will find that we would be putting young people
18 in a tremendous dilemma to have to report to the authorities.
19 Most likely they will not be able to do so and will either
20 have to carry a child to term or get an abortion by some other
21 means.

22 The dilemma of this and the ongoing problems that
23 this can create can be seen in a case study of a family that I
24 worked with and the folks, the people in the sexual assault
25 center who saw both the mother and the victim of sexual abuse,

1 this was a stepfather who had abused, were commenting on the
2 striking resemblance of mother and daughter. And there was a
3 lot of secrecy around the birth of this child, who was the
4 father of the child. It wasn't until some time that I learned
5 about the later dynamics of the family that I discovered why
6 there was such a striking resemblance between the mother and
7 the daughter. Because they were not only mother and daughter,
8 they were sisters and the unhealthy dynamics that had been
9 created in that family, both in the family of origin and in the
10 mother/daughter relationship were horrendous.

11 The same things are true when we are talking about
12 rape victims. There is a syndrome called rape trauma syndrome
13 which has been documented in the medical and mental health
14 literature. A very important part of that is denial. It is
15 hard for people to come forward and admit that something like
16 rape has gone on. The shame and the guilt, even though there
17 is no reason for shame and guilt, are very much a part of the
18 rape trauma syndrome. We will find that women will not be
19 able to come forward and name their rapist. If all of the
20 women who are raped came forward, our courts would be inundated
21 because so many women, I usually end up seeing them, I or my
22 colleague see them, much after the fact reporting the severe
23 ramifications and aftermath of rape. And, so, what we are
24 really asking young women and o l d e r women to
25 do something which will be very, very impossible for them.

1 Another part of what makes it impossible for ^{some} women
2 to report rape is that rape oftentimes, probably a lot more
3 often than you and I would like to admit, takes place under the
4 guise of acquaintance rape. Sometimes women will go out on a
5 date with someone that they know. Go out and they will say no
6 and their partner will not take no for an answer. I don't know
7 about other men, but I know I have always been able to control
8 my own sexual interests, response and impulse. I do not
9 believe in men being overcome with passions so that they cannot
10 take no for an answer. But it happens. These women find it
11 very difficult, number one, to deal with the fact that, yes,
12 indeed it was rape. It was a forced sexual experience. And
13 number two, to have to report this person about whom they have
14 so much conflict in the first place.

15 So, I would recommend, and I'm sorry that this had
16 to be so superficial, because I could give a lot more case
17 studies and go into a lot more detail. But we are asking
18 people to go both beyond denial, which oftentimes in therapy
19 will take years to go beyond, in order to, in a very public
20 way, by reporting to the authorities the trauma that they have
21 already experienced and opened themselves up to further trauma.
22 We are also asking family members to do what, in their eyes,
23 seems to be destroying their families. And I believe that
24 what will happen if this law does go into effect is that we
25 will have a tragedy compounded by even further tragedy.

1 Thank you.

2 CHAIRMAN DEWELSE: Doctor, thank you. Could you
3 before you leave, could you share with us just a few moments
4 on what you had to do with Miss Chase, Truddi Chase, and her
5 authorship, When Rabbit Howls.

6 DR. PHILLIPS: Yes. Seven years ago this fall a
7 woman came to me who had very vague memories of sexual abuse.
8 She had been through a number of different types of therapy
9 and had gotten bits and pieces of memory of a severe abuse
10 perpetrated by her stepfather. We began doing therapy and we
11 have continued doing therapy over much of these past seven
12 years. In the process of the therapy, gradually over time
13 became aware that she had, they had discovered a very amazing
14 kind of defense mechanism which is hard for many people to
15 believe, and that is the defense mechanism of multiple
16 personality disorder.

17 What multiple personality disorder is, in response
18 and to defend one's self against the ^{overwhelming} emotional aftermath of
19 sexual abuse, usually sexual abuse, about 95 percent of the
20 cases, the development of alternate personalities. The
21 Diagnostic and Statistical Manual III are of the, that is a
22 product of the American Psychiatric Association goes into a
23 lot more detail about the dynamics. Suffice it to say there
24 is a body of scientific literature which indicates that there
25 is the development of separate and distinct personalities,

1 each of which is unique and each of which has its own memory.

2 What this impressed upon me, and I wrote the
3 introduction trying to explain, summarize the more profession-
4 al literature about both sexual abuse and about the multiple
5 personality is that it impressed upon me the overwhelming
6 trauma, especially when the sexual abuse begins at a very
7 early age. Most people who have multiple personality disorder,
8 the abuse started at an early age. It is very traumatic. It
9 involves sexual, physical and emotional abuse. The child is
10 overwhelmed by all of these feelings that are evoked and in
11 order to protect itself and survive, its other personalities
12 begin to grow and develop.

13 It is amazing that we have, as human beings, such
14 a mechanism for protecting and surviving. But it also says
15 that when such an almost unbelievable defense mechanism has to
16 be employed, sexual abuse has a very profound effect on
17 children and young people and the effect goes on.

18 When Truddi Chase came to me, she was in her
19 middle 40's. It is the first time she had been able to get
20 treatment. We have had many, many other folks who have come
21 forward with the same kind of syndrome from the same kind of
22 causes. Thank you.

23 CHAIRMAN DEWEESE: Chief Counsel, Mr. Edministon,
24 has a question.

25 BY MR. EDMINISTON:

1 Q Dr. Phillips, I am familiar with Miss Chase's
2 book. In it there was some discussion of a videotaping process
3 regarding some of the sessions and there were some rather
4 poignant provisions relating to the discussions you had with
5 her and regarding the advisability of sharing that kind of
6 information, the risk involved. Can you comment on that
7 aspect of your professional relationship with Miss Chase?
8 In particular, in relation to your remarks earlier as to the
9 significance of the phenomena of denial.

10 A Yes. I think that the whole suggestion that we
11 might videotape early on came because Miss Chase became aware
12 of the fact, as she studied my credentials, that my basic
13 position at the University of Maryland at that time was
14 teaching others who are in training to be marriage and family
15 therapists. When she had been seeking a therapist, she had
16 gone for years trying to find someone with a specialized
17 knowledge of sexual abuse. She also found very little
18 in terms of written material. Her frustration, and I think it
19 came primarily out of her frustration, she probably would not
20 have wanted to do something like this. However, at that point
21 I think she needed probably to make this therapy, this process
22 of going through and uncovering what had happened to her, she
23 wanted to make it having greater meaning. And part of the
24 greater meaning that she saw was to provide some materials and
25 these materials have been only used in my university classes

1 up to this point to help train people, help confront people
 2 who are in training, in professional training, to come to
 3 grips with the aftermath, with the emotional aftermath.

4 I think she had been denying at that point all of
 5 particulars of sexual abuse for at least 20 years and she had
 6 finally come to the place where her life was in enough trouble,
 7 she was becoming aware of enough problem areas in her life
 8 that she needed to somehow come forth and go beyond the denial.
 9 I hope that answers your question.

10 Q It does. I have just one related question. In
 11 your experience how would you characterize this patient's
 12 willingness to come forward, share with someone other than her
 13 therapist this kind of information in her personal experiences?
 14 Would you characterize it as typical even understanding that
 15 her experiences may be extraordinary, routine or to the
 16 contrary.

17 A I don't know if I could categorize anything that
 18 the troops and Truddi Chase do is typical and along the
 19 ordinary. My own reading of the situation is that when she
 20 began to become aware of how deeply this had affected her,
 21 she wanted to somehow give others the opportunity to do
 22 something that she had never had to do, and very early on said
 23 this, talked about the feelings of isolation and the feelings
 24 of being alone. And I think it was an extraordinary effort
 25 to push herself because initially she would not have been able

1 to do this. But I think as she became more confident about
 2 herself, began to recognize that she was not alone, that there
 3 were many others who were victimized out there, I think she
 4 began to feel that she needed to share her story. In my own
 5 clinical determination, I see this as a healthy step.
 6 Something about which she had remained silent. Something of
 7 which she had been very ashamed. She now can stand up and say,
 8 I am no longer ashamed. This did happen to me. I do not want
 9 others to have to go through the same sense of isolation, the
 10 same sense of fear, the same sense of feeling as though she
 11 were the scum of the earth. I see that as a very healthy part
 12 of the progression of establishing a healthier sense of
 13 self-esteem.

14 Initially, any kind of public expression of her
 15 experience took place in the relative safety, I guess you
 16 would call it, of university classes in which the typical
 17 kinds of ground rules of confidentiality held true. My
 18 classes are all, whenever I have anyone speak about their
 19 experiences, all the students are under the bounds of
 20 confidentiality. So, there was that safety. And I think as
 21 she was able to talk and feel affirmation in this rather safe
 22 environment, there was a lot more ability to go out and become
 23 more public.

24 CHAIRMAN DEWEESE: Professor, thank you very much.
 25 The next witness, Miss Truddi Chase, author of the book. When

1 Rabbit Howls. Good morning.

2 MS. CHASE: Good morning. Thank you for having us.
3 We wrote this down in first person singular and if you read
4 the book, you will know there is quite a difference between
5 first person singular and the way we ordinarily address a
6 company.

7 Incest, like abortion, still carries a deep social
8 stigma -- a stigma so terrifying that in many families, the
9 secret is carried to the grave. Yet, the Commonwealth of
10 Pennsylvania has created Section 3209, demanding that a women
11 notify the father of her unborn child -- or at least tell her
12 mother -- that she is about to undergo an abortion.

13 The pregnant incest victim has every right to be
14 fearful of Section 3209. Abusive fathers keep their daughters
15 in line by telling them, "This is our secret. I love you and
16 if you ever tell, you'll destroy me." Or, they simply say,
17 "I'll kill you if you tell."

18 So, how does a young girl feel when told that to
19 terminate an incestuous pregnancy, she must give perfect
20 strangers by a verified statement, the identity of her unborn
21 child's father? Apart from being suicidal, she's ashamed,
22 embarrassed and scared to death. The Commonwealth of
23 Pennsylvania says she can get a statement from her mother.
24 But her mother may already know and be just as frightened of
25 that abuser. Or her mother may not believe her. Or her

1 mother, in economic jeopardy to the abusive father, may insist
2 that she give birth to the child. In any event, the secret is
3 out.

4 Incest happens in secret and so will the
5 repercussions when that victim has identified the abuser.
6 Other victims of incest tell me that rather than disclose,
7 they'd do anything -- kill themselves or try to self-abort,
8 have the baby in an alley and stuff the fetus in a trash
9 can -- because the effects of disclosure would be as bad as
10 the incest itself. For many of these women, the incest had
11 been hidden from their mothers -- out of guilt. These victims
12 felt they were guilty, dirty, the cause of it all, even
13 though many of them were barely out of the cradle when the
14 abuse began.

15 Under Section 3209, rape victims don't fare any
16 better. They too must disclose and few are believed because
17 like incest, rape is not a public event, it is a private hell.
18 When incest or rape leaves the woman pregnant, she can cope
19 with little except a physician willing to terminate the
20 pregnancy.

21 It took over a year for me to tell my therapist
22 anything but the barest details concerning my own incestuous
23 background. It takes years for any victim in treatment,
24 whether it be for incest or rape, for the scars to be
25 uncovered -- and then begin to heal. Yet, Section 3209

1 totally disregard such trauma and demands instant disclosure.

2 Public Funds, 3215(c) demands that rape victims
3 report to the law within 30 days of being raped. The same
4 goes for incest victims once aware of their pregnancy. That
5 awareness will not come easily. Some victims are so
6 traumatized they deny to the detriment of their own welfare,
7 just to keep emotional stability.

8 There is something the general public never thinks
9 of. Ours is an age where medical exams are taken for granted.
10 But the average incest/rape victim will do almost anything
11 rather than submit to a pelvic exam. In my own case, several
12 years ago, I began to bleed heavily on a daily basis. I
13 waited until the last possible moment and finally went to a
14 doctor who told me that I have a growth that should be
15 treated -- that I needed an immediate D&C, just to stop the
16 bleeding. It was all I could do to have the D&C -- I never
17 went back for treatment. I say this to show how reluctantly
18 the average incest and rape victim, will discover and report
19 her pregnancy.

20 Requirements such as 3209 and 3215(c) do nothing
21 more than deny poor women and girls in time of utmost need.
22 Under such requirements, physicians will be reluctant to
23 undertake abortions. There will be too much danger to their
24 professional licenses. We've come a long way since the time
25 of illegal abortions. I think you need to know just what the

1 reality of an illegal abortion is. I had one in Washington,
2 D.C. in the early '60's because of a date rape. A car picked
3 me up on a street corner. I handed the driver \$275.00. At
4 the time I was earning secretarial wages, barely enough to
5 support myself, let alone an infant. The man would probably
6 have supported me and the child in marriage -- but I was an
7 incest victim and didn't want to marry anybody, let alone a
8 man who had raped me. And I most certainly didn't want his
9 child.

10 The car took me to a slum apartment building. A
11 grandmotherly woman spread newspapers on a dirty bed in a
12 dirty living room. It took her three hours to place a
13 catheter inside me. She said the fetus would abort "shortly."
14 I went to work the next two days; on the third day the
15 catheter came out. The fetus did not. I was bleeding
16 profusely and running a temperature. After a four-hour wait
17 in the emergency room at DC General Hospital, the fetus fell
18 into the toilet. I wrapped it in a paper towel and put it in
19 my purse. The idea that you won't be believed is a strong
20 one -- and rape and incest victims know what I mean -- I felt
21 that by showing the fetus to the doctor, he'd believe I needed
22 attention. After a five-hour wait, I was put to bed and
23 examined. The doctors were calling it a miscarriage. I
24 stayed in DC General four days and my temperature rose to 107.
25 I heard one of the doctors say, "Give her blankets, leave her

1 alone. There isn't anything we can do. If she makes it, she
2 makes it."

3 by this time the doctor had seen on the X-rays the
4 scratch left by the catheter running down the wall of the
5 uterus. A social services worker interrogated me, wanting to
6 know who had performed the abortion. I didn't tell her. That
7 old grandmother abortionist might be another woman's only
8 hope. The social services worker demanded the name of the
9 father. I didn't tell. I wanted nothing to do with him.

10 I survived the 107 degree temperature. On the day
11 DC General released me, the doctor showed me some other women
12 who hadn't been so lucky. He took me to five rooms -- the
13 doors were shut, the rooms were dark. Inside each room was a
14 woman with tubes running from almost every opening in her
15 body. He said those women had had illegal abortions -- they
16 would be dead in a few days -- or hours.

17 That was illegal abortion. The women who underwent
18 those abortions didn't do so for frivolous reasons. The new
19 restrictions suggested for rape and incest victims will force
20 poor women and girls either to carry unwanted pregnancies to
21 term -- or comply under heinous conditions, with unfair
22 restrictions that make them feel exactly as if they are
23 undergoing an illegal abortion -- something more dirty than
24 what they've already been through. Such restrictions as 3209
25 and 3215(c) are unconscionable. What you're asking for at a

1 time of trauma and depression and usually economic despair, is
2 disclosure. And whether you're asking that a woman disclose
3 to the authorities or the child's father or her mother --
4 you're asking too much -- when that woman has already been
5 through too much.

6 CHAIRMAN DEWEESE: Thank you. I will ask you to
7 remain for questions in just one minute. In the cold language
8 of the Legislative Reference Bureau, 3209 says at least in
9 part what you are talking about, just for the record,
10 "Paternal notice required except as provided in Subsections
11 B and C. No physician shall perform an abortion unless that
12 physician has received a nonnotarized verified statement from
13 the woman upon whom the abortion is to be performed, that she
14 has notified the father of the unborn child that she is about
15 to undergo an abortion."

16 I just wanted that read into the record. Are
17 there questions for our Witness?

18 (No response.)

19 CHAIRMAN DEWEESE: Seeing no questions, thank you
20 very much for joining us. I know it was difficult. It was
21 appreciated by the Chair and the other members. Thank you.

22 The next person to testify, Samuel H. Henck,
23 Medical Doctor, Hershey Medical Center.

24 REPRESENTATIVE HAGARTY: Mr. Chairman.

25 CHAIRMAN DEWEESE: Yes.

1 REPRESENTATIVE HAGARTY: Could I just clarify
2 something? Maybe Chief Counsel can advise me if I'm not correct.

3 CHAIRMAN DEWLESE: Certainly, that is appropriate.

4 REPRESENTATIVE HAGARTY: Miss Chase just testified
5 that a mother could be told if the father could not. And I
6 don't read that in the bill. I read that you have to go to
7 court if you don't tell the father. Perhaps I'm missing
8 something under notifying the father section.

9 MS. CHASE: I thought somewhere it said if the
10 victim felt it was too dangerous, she could simply go to her
11 mother and get a statement from her mother that there was harm
12 feared from the abuser. Maybe I am mistaken. I was reading
13 two papers at one time.

14 REPRESENTATIVE HAGARTY: I'm not being critical.
15 I just didn't want the members, if that was incorrect, of the
16 Committee that you could tell your mother, because as I briefly
17 read the section, you are right under the paternal notification
18 section, as I briefly read the section, which related to
19 notice of the father, seemed to me to be incest exception. I
20 could be wrong. The incest exception on page 14 meant that
21 you had to go to court.

22 MR. EDWINSTON: I was about to say that I didn't
23 understand your question. I understood this much, however,
24 that there was some confusion between the reference points.
25 References being to parental consent and references being to

1 paternal consent. As you discussed your question further with
2 the Witness, I think you got the clarification if you needed
3 it. If you have a more particular question, I'm going to need
4 some help in understanding it, quite frankly.

5 REPRESENTATIVE HAGARTY: I don't know that it is
6 necessary to clarify it in detail now. I just caution the
7 Committee, under the paternal notice section, if the pregnancy
8 is a result of incest, it seems to me that the court provision
9 is the provision that applies under the paternal notice
10 section. In any event, we can clarify it at another time.

11 CHAIRMAN DEWEESE: I think that is exactly what we
12 shall try to do, clarify it at another time.

13 Dr. Henck, welcome to our Committee proceedings.
14 Thank you for joining us.

15 DR. HENCK: Thank you, Chairman DeWeese, members
16 of the Judiciary Committee:

17 Thank you for this opportunity to speak to you
18 about the proposed legislation dealing with the medical
19 procedure of abortion. My statements to you will draw heavily
20 from my own personal experience during a lifetime of practicing
21 and teaching the medical discipline of family practice. This
22 specialty emphasizes whole person health care to patients of
23 all ages in the context of the family and community. Its
24 rewards to the patient and physician are greatest when a
25 long-term relationship develops between them allowing

1 continuity of care over time. Some obstetric and gynecology
2 training is required before a physician can be certified as a
3 specialist in family practice. My own practice and teaching
4 have had a greater emphasis on these aspects of the health care
5 of women than most family physicians, and I have personally
6 attended in excess of 1000 childbirths.

7 A brief study of my background, my medical training
8 included study for the M.D. degree at the University of
9 Maryland School of Medicine in Baltimore. Three years of
10 postgraduate residency experience, one year in Akron, Ohio and
11 two years in Sacramento, California. My private practice
12 experience totals 11 years, and my full-time teaching
13 experience 12 years -- eight at the University of Rochester in
14 New York and the past four years at Penn State University
15 College of Medicine in Hershey. I am current President of the
16 Southcentral Chapter of the Pennsylvania Academy of Family
17 Physicians.

18 My comments to you express my own opinions and are
19 not to be taken as the official position of my employer or of
20 any of the medical associations in which I hold membership.

21 House Bill 1361 contains amendments which have the
22 overall effect of making pregnant patients stop and think
23 before going through with an abortion. During the process of
24 verifying that the patient's consent is truly informed consent
25 some patients will change their minds. Other minor patients

1 will not be able to obtain consent signatures from either of
2 their parents. And still others when confronting the father
3 of their unborn child will be persuaded against destroying the
4 child. Finally one section would limit the funds available to
5 the cause of promoting abortions. So, passage of this bill as
6 it is proposed would save lives of unborn children in
7 Pennsylvania that might otherwise be destroyed. The bill
8 would also support family relationships and promote
9 communication between family members; considerations I, as a
10 family physician, know to be extremely important. I urge you
11 to act favorably on all of the provisions in this bill.

12 Regarding the issues addressed in House Bill 1362,
13 I speak to you about a moral dilemma that affects my own
14 medical practice in a very real way. I am opposed to treating
15 any disease by destroying the patient. My conscience dictates
16 against such action in all circumstances. Even when the
17 patient who has a disease, deformity or disability has not yet
18 been born, I cannot condone or participate in destroying the
19 patient as a means of treatment.

20 It follows that I cannot order tests and studies on
21 a pregnant woman, the sole purpose of which is to determine
22 the presence of some abnormality in order to destroy the
23 unborn child. Nor can I refer pregnant women to other
24 physicians for the purpose of "search and destroy" missions on
25 their unborn children. I gladly order and refer for tests,

1 studies and treatments including amniocentesis if the intent of
2 those technologies is to support and sustain the life of both
3 mother and child. I cannot participate in treatment that has
4 even the slightest risk of willful destruction of either mother
5 or child. This position is not something new in the medical
6 profession. It has been the strong moral conviction of most
7 physicians since the days of the Hippocratic oath.

8 If I could digress for a brief moment, I will
9 read to you the relevant portions from the Hippocratic oath
10 written about 370 B.C. in the Greek culture.

11 "Neither will I administer a poison to anybody
12 when asked to do so, nor will I suggest such a course.
13 Similarly, I will not give to a woman a pessary to cause abor-
14 tion but I will keep pure and holy both my life and my art."

15 This oath has been prescribed to for generations
16 by thousands of physicians.

17 I would like to read a more recent code of medical
18 ethics, a portion of the International Code of Medical Ethics,
19 from October 1949.

20 "A doctor must always bear in mind the importance
21 of preserving human life from the time of conception until
22 death."

23 But a physician of my acquaintance has recently
24 been taken to court in a lawsuit by the mother of a child with
25 Down's Syndrome because he did not offer her the option of

1 amniocentesis for prenatal diagnosis and the choice of
2 destroying the fetus prior to birth. What am I to do? Should
3 I allow the fear of a lawsuit to cause me to take actions
4 contrary to the dictates of my conscience and the higher laws
5 of God as I understand them?

6 The abortion issue is not a superficial one for
7 me. I have come to my present beliefs through a lifetime of
8 experience and great personal pain. I have lived on both sides
9 of this issue. In the late 1960's I served on the local board
10 of Planned Parenthood in Jefferson County, New York, the
11 location of my medical practice at that time. One of the high
12 points of these years for me was a fund raising banquet in
13 Watertown, New York at which Dr. Alan Guttmacher was the
14 featured speaker. I respected the man very much and accepted
15 his viewpoints on the issue of abortion. The anti-abortion
16 position seemed to me then to be mostly a Roman Catholic
17 position -- not valid for me, a protestant.

18 It is a matter of record and one I share with
19 shame and sorrow that about 1971 I performed an abortion in a
20 hospital in Carthage, New York on a young woman who had no
21 reason for the procedure except that it was an unwanted
22 pregnancy. Minor complications occurred, but she survived and
23 I have not seen her since she recovered and returned to her
24 home.

25 When women who have had an abortion tell you about

1 the continuing deep pain of guilt they experience, believe me,
2 it is real. Should a scientifically trained professional who
3 has been taught to think logically and rationally succumb to
4 the same emotions? I can testify to sleepless nights, intense
5 internal pain and depression that have only been relieved by
6 confession, repentance and faith. But the memory is never
7 erased. It will always be true that by my own willful actions
8 the life of another human being has been destroyed.

9 I share these things with you in the hope that the
10 action you take on these two House Bills, 1361 and 1362, will
11 spare at least some young women and perhaps some future
12 physicians from going through this same pain and most
13 important of all, save the lives of the unborn.

14 CHAIRMAN DEWEESE: Thank you, Doctor. You have
15 also given us some very sensitive testimony. We have some
16 questions from Mr. Kukovich of Westmoreland County.

17 BY REPRESENTATIVE KUKOVICH:

18 Q Doctor, isn't it true that current medical
19 standards require physicians to provide informed consent
20 currently?

21 A I had limited time to prepare my testimony and I
22 have not had an opportunity to compare this legislation with
23 current law. I'm sorry. I know that informed consent is
24 common in the setting that I work. I don't have experience,
25 recent experience, with preparing patients for abortions. So,

1 I don't know how much informed consent. I will say that I
2 have contact with two medical students, who are presently
3 attending our Hershey Medical School, who do some sidewalk
4 counseling here in Harrisburg, talking with patients on their
5 way into a nearby abortion clinic. They tell me that some of
6 these young women are entering that building very poorly
7 informed about what will happen to them. I have not personally
8 been present for those discussions.

9 Q But you don't know clearly what the distinction
10 would be between the nature of the information provided under
11 this bill as opposed to current practice?

12 A I do not.

13 Q See, I don't think anyone on either side of the
14 issue disagrees with informed consent. The question is
15 whether the information provided is that which is really
16 necessary for someone who would be undergoing an operation or
17 medical treatment, and whether the nature of the information
18 could be such as used to harass individuals or to create some
19 trauma for those individuals. I think that is part of the
20 concern. Do you have any similar concerns about how that
21 information can be used?

22 A Counsel has told me prior to this testimony that
23 the wording of this passage of the bill is the same as the
24 wording in the Medical Practice Act. That it does not
25 require greater information be given than would be given for

1 an appendectomy, cholecystectomy or any other surgical
2 procedure. What is required that the patient be informed of
3 the procedure, of its risks and complications. From my own
4 experience I would say that certainly should include the
5 physiological complications.

6 Q You are saying that is already covered under the
7 current Medical Malpractice Act?

8 A My understanding is that the wording in the bill
9 is the same. That is what I had been told. It does not go
10 beyond that. This bill does not go beyond that.

11 Q If that's the case, then if current practices,
12 current standards, and there is some evidence that there is
13 adequate informed consent currently going on, I don't
14 understand the need for this section then.

15 A It seems that it might be worth repeating it in
16 this bill.

17 Q Just one other point, just out of curiosity, you
18 mention in your testimony what the highlight of your career
19 was whenever you got to attend this fund raising banquet with
20 Dr. Guttmacher. I am just confused. How do you feel about
21 Dr. Guttmacher now?

22 A Perhaps I didn't make it clear. It was a
23 highlight to me at that time. Those years are different.
24 Since my experience with performing an abortion, going through
25 the extreme guilt and internal pain and depression following

1 that, I certainly would disagree 180 degrees with Dr.
2 Guttmacher's teaching about abortion.

3 CHAIRMAN DEWEESE: Dave Heckler from Montgomery
4 County.

5 REPRESENTATIVE HECKLER: For the record, Mr.
6 Chairman, Bucks County.

7 CHAIRMAN DEWEESE: Right next door. I'm sorry.

8 REPRESENTATIVE HECKLER: Close.

9 BY REPRESENTATIVE HECKLER:

10 Q Doctor, I note in your testimony that you mentioned
11 the plight of a colleague who is being sued in connection with
12 an alleged failure to offer the option of amniocentesis and I
13 am not just clear where your testimony is going with this.
14 Let me pose a hypothetical. A woman comes to you in your practice.
15 She is married, has several children. Presumably has the means
16 of properly discharging a maternal responsibility. She is in
17 a group, for whatever reason, age or whatever, which suggests
18 that there is a significant risk that she may have, either
19 a Down's Syndrome child or a child with other imperfections,
20 shall we say. She expresses concern to you upon learning she
21 is pregnant. That she is in one of these risk categories and
22 expresses a desire of tests or inquires of you if testing is
23 available to determine whether her baby may be in one of these
24 categories. Is it your suggestion that it would be
25 inappropriate to offer these options to her?

1 A You must remember, whenever I have a pregnant
2 patient in my office I have two patients under my care at that
3 time. I will say to her all the things that need to be said
4 to protect the lives of both of those patients. Now, I have
5 had similar situations occur. I have told patients my moral
6 position and allowed them to make a choice, if they decide
7 they would prefer to go elsewhere. I have told them my
8 actions and recommendations will a l w a y s be in the
9 direction of supporting the life of both her unborn child and
10 herself.

11 Q I'd be very interested then in hearing in capsule
12 form at least what you would say to the woman who says to you,
13 I am afraid. I read that because I am 35 years old my baby
14 may be at risk of being a Down's Syndrome baby. I am
15 concerned about this. It is early in the pregnancy. We have
16 our family. This isn't a planned pregnancy. I need to know
17 if this baby may be in some way imperfect. Will you
18 prescribe amniocentesis or some other procedure for me? What
19 would you tell her?

20 A I would tell her that my conscience does not allow
21 me to go on a search and destroy mission trying to find an
22 abnormality for the sole purpose of destroying the patient.
23 I have two patients in my office and I am not in favor of
24 destroying her if she has an incurable disease and I'm not in
25 favor of destroying her unborn baby if her unborn baby has an

1 incurable disease.

2 Q Let me pose a small change in that hypothetical.
3 Let me suggest that this woman comes into you, same fact
4 situation, discovers she is pregnant. You tell her she is
5 pregnant and she is happy about that, but she is in a
6 category for whatever reason which alerts you in your medical
7 expertise that there is a significant likelihood that the
8 child will have some serious defect. But she doesn't ask
9 about amniocentesis. Would you feel constrained, as a
10 professional, to explain to her the fact that she is in a high
11 risk category and that she may wish to consider, while
12 explaining your moral stance on this, explain to her the options
13 that may be available to her?

14 A Do you think if I give her that explanation that
15 her unborn baby may be at greater risk?

16 Q It may be.

17 A It very well may be.

18 Q Therefore, you would not offer that option to her?

19 A Once in my life I have had blood on my hands. I
20 have killed a baby once. I will not do it again.

21 Q With regard to that, one more question, if I may,
22 Mr. Chairman. You mentioned in your testimony that you have
23 had no further contact with this young woman upon whom you
24 performed an abortion. Have you ever, either in a personal
25 way or even through sociological literature, made any endeavor

1 to follow up, if you will, on the lives of children who are
2 born to mothers who don't want them? Mothers who either, by
3 reason of age or by some other circumstance, are not prepared
4 to provide for that? Have you ever looked into that at all?

5 A My practice includes patients of all ages. I have
6 children who are victims of child abuse. I have had women who
7 have had problems adjusting to the birth of a child. Does
8 that answer your question?

9 Q Well, it may in part. Are you aware specifically
10 whether any of those children are essentially unwanted
11 children?

12 A I don't think there is a particular case I can
13 recall where a child was so unwanted that it was not given
14 appropriate care. Most of the time, occasionally, a mother
15 will, under a stressful situation, abuse a child. I fail to
16 see how destroying children would help that situation.

17 REPRESENTATIVE HECKLER: Thank you.

18 CHAIRMAN DEWEESE: Thank you, Mr. Heckler. Any
19 other members of the Committee have questions of Dr. Henck?
20 Miss Josephs from Philadelphia.

21 BY REPRESENTATIVE JOSEPHS:

22 Q Sir, are the people, the professional staff, all
23 the medical and social service providers, be those at the
24 Milton Hershey Medical Center, aware of the fact that you
25 will not tell families that they may have a high risk baby,

1 nor perform medically acceptable tests, nor refer to physicians
2 who will do those things?

3 A I would not agree with the way you have phrased
4 that. The majority of the medical profession, even to this
5 day, does not perform abortions. The number of physicians
6 who do is a very small minority. Many physicians of my
7 acquaintance, both on the staff at the Hershey Medical Center
8 and in other practices in the community, share my viewpoints.

9 Q I'm asking, I'm sorry, perhaps I did not make
10 my question clear. Whether the people at the Hershey Medical
11 Center, when they refer patients to you or as they come in,
12 are aware of your attitude?

13 A Some are.

14 Q And are patients warned?

15 A I keep hearing some things that are very negative
16 in your questioning.

17 Q I can't imagine why.

18 A First of all, you accuse me of not ordering medical
19 appropriate tests which I do not agree I am not ordering
20 medical appropriate tests. I said I would. Then you are
21 telling me that people should be warned. So, I think I will
22 pass up even trying to answer such an accusation.

23 CHAIRMAN DEWEESE: That is your privilege, of
24 course. Any other members of the Committee have questions
25 for Dr. Henck? Mr. McHale. I can't read your visage. It

1 seems as though you might have something on your mind. This
2 is Mr. McHale of Lehigh County. Also, as Chairman, I welcome
3 Mr. Wogan of Philadelphia, two members of the Committee who
4 have joined us.

5 REPRESENTATIVE MCHALE: Mr. Chairman, you know me
6 long enough you can read my mind these days.

7 BY REPRESENTATIVE MCHALE:

8 Q Doctor, I came in late so I missed the earlier
9 portion of your testimony. And if I am asking you to repeat
10 something you have already covered, forgive me. The Roe vs.
11 Wade decision was based on a careful analysis of the trimesters
12 involved in a pregnancy. Could you briefly, for the Committee,
13 review the changes in technology and the changes in medical
14 practice since 1973 that might affect medical treatment during
15 any of the three trimesters of a pregnancy? Has medicine
16 changed a great deal with regard to prenatal treatment since
17 1973?

18 A The changes have been in the direction of more
19 treatment for premature, low birth weight in infants. That is
20 the major changes. So that children who would not have
21 survived because of a very small birth weight in 1973, many of
22 those children can now be treated and can lead normal lives.
23 That's the major change that comes to mind.

24 Q Could you perhaps give some greater specifics on
25 that treatment? I gather what you are saying is, it is now

1 possible medically to treat a developing fetus at an earlier
2 stage in the pregnancy. So that what might have been a
3 problem that was insurmountable in 1973 can now be treated
4 medically?

5 A That is true.

6 Q In terms of surgical procedures and so on?

7 A Yes.

8 Q I truly don't know very much about that and I, for
9 one, would appreciate hearing without going to great length,
10 but some details as to how that medical treatment has changed
11 since Roe vs. Wade.

12 A I work in an institution that has a far advanced,
13 very skillful neonatal intensive care unit. I personally do not
14 treat patients in that unit. So, I cannot give you as
15 specific information as you would like.

16 In preparation for this testimony I did speak with
17 one of the physicians there and said, what is the youngest
18 gestational age that a newborn has survived. And his response
19 was about 23 weeks gestation. Now, that's very different than
20 1973. I can't tell you exactly what it was in '73, but it was
21 probably about 30 weeks at that time. I can recall in my own
22 early practice in the 60s delivering babies weighing approximately
23 where we would treat them expectantly, put them in a crib and wait
24 until they stopped breathing. We did not have treatment that
25 would be effective in keeping them alive. I'm sorry I can't

1 be more specific about what the treatment involves. It is
2 very complex, very complex.

3 Q One final question, are we reaching the point
4 where a baby born in the second trimester, in all likelihood
5 towards the end of the second trimester, might have a
6 reasonable expectation of surviving?

7 A That is true already. Toward the end of the second
8 trimester?

9 Q Yes.

10 A I said 23 weeks. The end of the second trimester,
11 it is hard for me to do mathematical calculations under the
12 present circumstances, would be what number of weeks, 12, 24?
13 Well, we're getting there.

14 REPRESENTATIVE MCHALE: Thank you, Mr. Chairman.

15 CHAIRMAN DEWEESE: My pleasure, Mr. McHale.

16 The opportunity for me to quote my oath is
17 irresistible. You quoted yours, so emphatically I must quote
18 mine, and I took it on the Bible in front of my colleagues and
19 in front of the Commonwealth.

20 "I do solemnly swear or affirm that I will support,
21 obey and defend the Constitution of the United States and the
22 Constitution of this Commonwealth and I will discharge the
23 duties of my office with fidelity."

24 With that as my oath and you sharing your oath and
25 your perspectives, we obviously have a tough situation and

1 quickly it reminds me of an afternoon in Quantico, Virginia in
2 the early '70's when I was a young Marine officer advocating
3 the election of George McGovern. This sounds a little
4 difficult to swallow. There were a battalion of Marines in a
5 big auditorium. Several of us had been chosen to give a
6 public address. I got up and I talked for ten minutes about
7 Mr. McGovern's alternative defense posture. Many of the
8 warriors in the room thought that that would emasculate the
9 U.S. Armed Forces. And after it was over, a Marine Corps Major
10 walked up to me and said, young man, I disagree with
11 everything you said but I admire the way you said it.

12 I got the highest grade in the battalion. For a
13 guy who couldn't shoot or march, I needed a good grade that
14 day.

15 I congratulate you on presenting very
16 substantative and sensitive testimony. Although we disagree,
17 I thank you for being here.

18 DR. HENCK: Thank you for hearing me.

19 CHAIRMAN DEWEESE: Mr. Caltagirone.

20 REPRESENTATIVE CALTAGIRONE: Thank you, Doctor.

21 I just want to let you know that we have never lost a battle
22 in this legislature concerning this issue on life. I am a
23 Roman Catholic and I went to a southern Baptist college. I
24 thoroughly enjoyed that experience. I thoroughly support your
25 belief and position. Thank you.

1 CHAIRMAN DEWEESE: Any other comments or
2 questions from the membership?

3 (No response.)

4 CHAIRMAN DEWEESE: If not, thank you again.

5 The Chair welcomes Miss Kate Strauser as our next
6 witness. For the audience, we are only about 15 minutes late
7 which for a legislative time I think is superb. I thank
8 everyone for their cooperation. Good morning and welcome to
9 our Judiciary hearing.

10 MS. STRAUSER: I'm a little shorter than your
11 last witness.

12 CHAIRMAN DEWEESE: Miss Strauser, I believe we
13 all have your statement. Would you please commence?

14 MS. STRAUSER: My name is Kathleen Strauer. I
15 have come here today to tell you about my personal experiences
16 working for a provider of abortion services and why I would
17 like the members of the House to pay special attention to the
18 reporting requirements of these bills couched in the above.

19 I should begin my testimony by telling you that on
20 Monday evening two weeks ago I received an anonymous phone call
21 from a woman who told me that if I came here today to testify,
22 I could easily be embarrassed and discredited and that I should
23 want to avoid that. I was not surprised to receive such a
24 phone call because it has been my experience that if the
25 anti-choice forces are able to identify an individual who is

1 involved in any way with providing, obtaining, or supporting
2 abortion services, that person will invariably become the
3 recipient of harassing and intimidating actions. Upon
4 investigation, the fact that my name and home address had been
5 released to the anti's was confirmed. Now, I would like to
6 tell you about what I have seen when information relating to
7 the identities of abortion providers, potential patients and
8 actual patients is discovered by the opponents of choice.

9 From April 15, 1985 to June 15, 1987 I was
10 employed as the Director of Community Relations at the
11 Northeast Women's Center in northeast Philadelphia. I was
12 hired because I had expertise in public relations and the
13 continual protests by anti-choice activists at the facility
14 was negatively affecting the quality of services provided.
15 There had been an invasion of the center in December of 1984
16 and the number of protesters coming to the clinic on prodecure
17 days was increasing steadily. In addition, the tone of the
18 protests was becoming alarmingly angry and hostile. The first
19 time I came to work on a Saturday, I was accosted by two of
20 the activist men, who thought that I was a patient and
21 screamed in my face that "Hitler loves you" and that I would
22 "burn in hell for the murder of my unborn baby." These men
23 did physically try to prevent me from going into the building.

24 CHAIRMAN DEWEESE: Did or did not?

25 MS. STRAUSER: Did, they did.

1 As time went by, the escalation of activities
2 against the clinic continued and the media began to take an
3 active interest in the war that was being waged against the
4 center. Part of my job was media relations and so I frequently
5 did interviews. My name and face became associated with the
6 clinic publicly, giving the anti's a real person to target their
7 animosity against. There were more invasions of the clinics
8 and more and more arrests. I was often called as a witness in
9 court cases and therefore subjected to even more harassment.
10 Generally, the abuse was verbal, with protesters screaming at
11 me when they saw me come to work or when they encountered me
12 taking pictures outside the building. But it did not stop
13 there.

14 By June 1986 the clinic had been invaded three more
15 times and the anti's began to target me at home. My address
16 is not listed in the phone book so I assume that I was
17 followed at some point. I am a resident of Bucks County. The
18 protests at my home happened several times. Each time was on
19 a Sunday and there were usually about ten people involved.
20 They had signs that said I was a murderer and they would stand
21 on the sidewalk and picket. Generally, they would stay at my
22 home between a half hour to an hour. I am a single parent and
23 I have one child. My son was very frightened by these people
24 and shortly after the home picketing began, he began to ask me
25 to find another job. He is 14 and very aware of the extreme

1 violence and destruction that occurred at some clinics. He
2 told me that he was afraid that I would be hurt.

3 In addition to the verbal abuse, the harassment at
4 home, the intimidation of my child, my car repeatedly was
5 vandalized. During the height of activity, I had to purchase a
6 total of six new tires because large nails were driven into
7 them. This happened once in the parking lot at work and the
8 other times in my own driveway at home. One day in January of
9 this year, my car was surrounded by picketers as I arrived at
10 work and my tail light was broken and my door dented. Several
11 weeks after that incident I received notice that one of the
12 protesters was making a claim against me for "running her over."

13 The conditions under which I was trying to work
14 were becoming more and more stressful as well. There were
15 regular bomb threats, clinic windows were blown out when an
16 explosive devise was attached to them and one night someone
17 fired a gun into the door. I made the decision to resign my
18 position at the completion of a pending major legal action
19 and did so in June.

20 My experience working in this field may be
21 outrageous but they are by no means unusual. Even in my limited
22 tenure with the Northeast Women's Center I saw one administrator
23 at the clinic resign as a direct result of intense personal
24 harassment at work and at home. Two physicians targeted at
25 home to the point that injunctive relief was sought and

1 obtained, and another administrator resign in order to
2 protect herself and her family from the inevitable harassment
3 she would experience following my resignation. You need to
4 understand that the tactic of identifying specific individuals
5 involved with the provision of abortion services and then
6 targeting them and their families with harassing and
7 intimidating actions is a fundamental part of the fight
8 against free choice.

9 My experiences with the actions of the anti's
10 relative to discovering the identities of patients is limited.
11 All clinics and health care facilities work diligently to
12 protect the confidential nature of the patient's care and the
13 patient's right to privacy. What I have seen, however, is
14 that from time to time a protester may recognize a patient who
15 is coming to the center for a pregnancy test. At that point the
16 patient is the focus of an intensive lobbying effort to force
17 the woman to continue her pregnancy. I am aware of several
18 cases in which the protesters go to the patient's home or
19 contact her family to put pressure on. Even if a patient is
20 unknown to the protesters, they may go to extraordinary
21 lengths to prevent a woman from coming into the clinic.

22 In conclusion, let me say that I have seen
23 anti-choice zealots convicted of trespassing, committing acts
24 of extortion, and conspiracy, all under the guise of
25 protecting mothers and babies. I simply ask that when you

1 evaluate the amount of personal information required to be
2 disclosed under this act that you ask yourselves these
3 questions:

4 (1) Is this information that the public needs?

5 (2) Is this information that is fundamental to
6 providing quality care?

7 (3) Does the revelation of this information
8 violate a confidential relationship?

9 (4) Will the revelation of this information
10 subject anyone to harassment or intimidation?

11 (5) How can privacy and confidentiality of
12 essential data be insured?

13 I urge you in the strongest possible way to
14 investigate and evaluate the real need for specific pieces of
15 data within the reporting sections of this bill and weigh that
16 carefully against the realities of the climate existing around
17 this issue.

18 Thank you for your attention.

19 CHAIRMAN DEWEESE: You are very welcome. Mr.
20 Kukovich from Westmoreland County.

21 BY REPRESENTATIVE KUKOVICH:

22 Q Miss Strauser, just one question. In light of
23 your testimony some of us have seen newspaper stories of
24 violence and intimidation. You testified regarding your
25 experiences at Northeast Center?

1 A Northeast Women's Center.

2 Q Can you enlighten us on whether or not what you
3 experienced is reflective of any national trend? Do you have
4 any other statistics or incidences that show that this is a
5 growing problem, number one?

6 And number two, from the questions that you pose
7 at the end of your testimony, do you feel that this legislation
8 could lead to further intimidation or harassment?

9 A To answer your first question, yes, this is a
10 growing trend. I don't have specific numbers with me today.
11 There are organizations like the National Abortion Federation
12 who very carefully track violence directed against clinics
13 across the country. And even though their numbers are
14 alarming in the amount of increased violence they attract,
15 they track a limited number of clinics. So, it is
16 representative of what is going on, but not to a decimal
17 point correct.

18 When I began my job, I thought that what the
19 Northeast was going through was something that was specific to
20 a northern industrial Roman Catholic community. What I
21 learned when I began to investigate what was happening in
22 other clinics and how they were managing the problem, that was
23 really what I was there to do, was to make the climate more
24 conducive for patients coming in without being assaulted and
25 intimidated on their way into the clinic, was that it was

1 happening all over to varying degrees, but that our problem
2 was typical. The action that we took and the strategies that
3 we took became a role model for other clinics across the
4 country and we began to share information on how to manage the
5 problem.

6 To answer your second question, my experience
7 leads me to the conclusion that there are operations on two
8 levels. There is sort of this aura of protecting and doing
9 good works and all of the noble kinds of values that we would
10 like to think that we all have that are set forth by what I
11 call the opponents of choice. And another level, what they do
12 with the information that they get when they are able to get
13 it, is something completely different. I never had anybody
14 come quietly and say to me, let me talk about your religious
15 upbringing and let me see if we can tap into your experiences
16 in life to see if we can persuade you. That never happened.
17 I was called names that I had never heard before in my entire
18 life and I have lived in Philadelphia for 36 years.

19 (Laughter.)

20 So, these were from prolife good people. I had a
21 phone call one day from a woman, I could tell from her voice
22 that she was an older woman, who threatened me and my son by
23 saying what would you do if God decided to rip off your son's
24 head and arms and legs the way you do?

25 Now, I'm a marketing specialist and a public

1 relations person. And I was targeted because I worked at the
2 Northeast Women's Center, pure and simple. I have seen them
3 follow patients, I have seen them try to intervene with
4 patients. So, what I want to say to you, be alert to the two
5 levels. Ask yourself what is it that they really want and
6 what do the disclosures and the reporting requirements in this
7 bill really give the Commonwealth and the people in the
8 community?

9 REPRESENTATIVE KUKOVICH: Thank you very much.

10 CHAIRMAN DEWEESE: Miss Josephs from Philadelphia.

11 REPRESENTATIVE JOSEPHS: Thank you, Mr. Chairman.

12 Miss Strauser, it is interesting. I am sitting here listening
13 to you and so much that I thought I had forgotten just came
14 back. During the years of 1978 and 1979, I was the coordinator
15 of the Pennsylvania Chapter of the National Abortion Rights
16 Action League. The level of harassment that I was subjected
17 to was not nearly as high as yours, but I was harassed. I
18 remember coming home one day and seeing a picture of the fetus
19 on a self-adhesive label kind of thing stuck on my door.
20 People would call in the middle of the night. And since I
21 have had at that point elderly and sick parents, I would
22 always answer the phone with a real pounding heart only to
23 hear somebody yell murderer. In the office on the phone line,
24 I would come in the morning and there would be the answering
25 tape would have the sounds of babies crying. Somebody took my

1 name and phone number and sold it to a, I assume, sold it to
2 somebody from the anti-abortion camp, to a service which
3 provides the names of women to men who are looking for sex.
4 I got a lot of phone calls about that. I know that this was
5 the case because one of these men called me back to apologize
6 for harassing me and told me who it was who sold him my name
7 and it was a person who I knew to be an anti-abortion activist.

8 I was at Northeast Women's Center helping to
9 escort patients through lines of screaming people during those
10 years. I was called Hitler. I was called murderer also. I
11 had people sticking their faces in my face and yelling at me.

12 I'm very alarmed about the escalation of violence
13 and destruction that I see in Philadelphia and across the
14 country, and I call now on those people here who oppose legal
15 abortion, and let me make it clear, these folks are not
16 opposing abortion, they are opposing legal abortion, who would
17 recriminalize abortion. That every time they get a public
18 forum, they ought to be speaking to their people and directing
19 them to cease their practices of violence and harassment. I
20 will ask every, from here on in, as long as I am at this
21 hearing, I will ask every person here who espouses the cause
22 of recriminalizing abortion to make such a statement since we
23 are now in a public forum. And perhaps you and I will not be
24 harassed and bothered and annoyed for our beliefs so much in
25 the future.

1 CHAIRMAN DEWEESE: The gentleman, Mr. McHale.

2 REPRESENTATIVE MCHALE: Thank you, Mr. Chairman.

3 BY REPRESENTATIVE MCHALE:

4 Q Miss Strauser, this is an issue on which I think
5 it is relatively easy for ideologs on one side of the issue
6 or the other to take an extreme position and argue for that
7 position without a reexamination of the premise that started
8 the argument. I find myself in the unfortunate situation,
9 where for ten years, I tried to grapple both morally and
10 legally with what I think are very difficult and competing
11 values on this particular issue. I was appalled by
12 instances of violence, physical intimidation, assault and
13 so on, that you recounted. I find it to be unacceptable in
14 a democracy that someone makes ^{their} point of view known through an
15 expression of violence. That bothers me a great deal.

16 Conversely, it bothers me that in response to that
17 extremism, I have heard other individuals on your side of the
18 issue willing to curtail freedom of speech on this issue in
19 ways in which they would not be willing to control their first
20 amendment freedom on other issues. With that kind of prelude
21 to my question, at what point in your view, does the legitimate
22 expression peacefully under the first amendment of a point of
23 view become, with changing facts, harassment and intimidation?
24 Where do you draw the line? At what point would you say that
25 those who disagree with your point of view have gone beyond

1 the first amendment freedoms to the point of targeting,
2 harassment and intimidation?

3 A I think that, if I understand the point that you
4 are making, that at the point at which someone puts themselves
5 between the patient and the service that she seeks and tries
6 to persuade by any means, whether it be with pictures,
7 physically pulling someone away, I think that that is a
8 violation right there and then. Any time someone wants to
9 interfere.

10 Q So, you don't draw a distinction between a
11 picture and a physical attempt to halt someone who is
12 attempting to enter a clinic?

13 A Not the pictures that I have seen, sir. The other
14 thing that I would like to say here is that I worked inside
15 the clinic as well. I worked with the counselors. I was in
16 attendance, in counseling sessions. I talked to many, many
17 patients. I come from a background, a hospital background,
18 so, I have been involved in health care for about 20 years
19 now. I understand how informed consent works. I understand
20 about the doctor/patient relationship. And I can tell you that
21 what I saw in the Northeast Women's Center in terms of
22 informing patients abouts the risks, potential risks,
23 complications of their surgery was not in any way, shape or form
24 different than what I have encountered in the hospital
25 setting over the course of the last 20 years. So, when you

1 talk about, as you say, our side of the issue, interferring
2 with first amendment, I'm not quite sure what you mean by
3 that. I mean, what I have seen is that there is disclosure,
4 there is informed consent given in a proper medical kind of
5 way.

6 Q Your answer really touched very directly on the
7 point that I was trying to raise. We have a difference of
8 opinion. I agree with you completely with regard to any kind
9 of physical assault, threats of violence or acts of violence
10 or perhaps even intimidation going to the number of
11 protesters and the way in which they might express themselves.
12 I think that any act of violence is an absolutely illegitimate
13 means of expressing any point of view. But I would caution
14 you to forcefully disagree with the opinion that is being
15 expressed by the prolife groups but simultaneously respect
16 their right to express it, no matter how distasteful you
17 might find that position to be. For instance, I don't think
18 that a photograph, even if I feel that it may be misleading or
19 it may not express a point of view that agrees with my own, I
20 don't think that a photograph is an improper way to express a
21 point of view.

22 I think that clearly the display of that
23 photograph would be protected by the first amendment. I don't
24 find that to be intimidation or targeting or harassment. I
25 may not like it. I may not agree with it. But I would defend

1 the right of the person to display it.

2 I guess what I am really saying is this, as you
3 fight, as you are certainly entitled to do, to protect your
4 constitutional rights with regard to freedom to choose, in
5 response to what may be totally unacceptable acts of violence,
6 do not respond in a way that legitimately comes in conflict
7 with first amendment freedoms with those of whom you disagree.

8 A I am sure I would have a different position, sir,
9 if I had ever been in a circumstance where I saw someone quietly
10 displaying a picture. I have never been in that situation.

11 REPRESENTATIVE MCHALE: Thank you, Mr. Chairman.

12 CHAIRMAN DEWEESE: You are welcome. The Chair
13 would like to welcome Mr. Girard Kosinski from city of
14 Philadelphia, Vice-chairman of our Committee. Also, Mr. John
15 Barley from Lancaster County in the back of the room.
16 Welcome, gentlemen.

17 BY CHAIRMAN DEWEESE:

18 Q I have one question, a quick one. What was the
19 reaction of the Philadelphia law enforcement community to the
20 incident that you have described?

21 A That's not a quick answer.

22 Q Well, please, encapsulate it within 15 seconds.

23 A There is a special unit of the Philadelphia Police
24 Department called the Civil Affairs Unit whose objective it is
25 to prevent confrontation, I believe is the way that they put

1 it. So, what they tried to do is basically just keep the two
2 sides separate but not control the activities that took place.
3 So, it became very tense.

4 Q They were only marginally successful?

5 A That depends on who you ask.

6 CHAIRMAN DEWEESE: Two observations and then
7 we'll go on to the next witness. Number one, I think it
8 should be noted for the record that Adolph Hitler was not in
9 favor of abortion. So, those kinds of exortations are
10 historically inaccurate. He wanted more people for his
11 Panzer divisions and for his factories.

12 The second observation, and I'm going to echo
13 McHale a little bit, at least indirectly, you talked about
14 yourself being a target of animosity, I only share this as a
15 Chairman of this Committee and as a politician. I am
16 fortunate, and I would hope that my colleagues, the men and
17 women that I serve with, have also been fortunate because over
18 the years, 12 years, I have been aggressively outspoken. I
19 think I am one of the idealogs that Mr. McHale politely and
20 obliquely referred to, but nevertheless in spite of my
21 protestations against Mr. Freind, he and I have maintained an
22 eminently amicable rapport over the years. And the vanguard
23 troops of the Catholic Conference, in spite of my disinclination
24 to embrace most of their issues, have been polite and we, as
25 politicians, maybe are viewed with a little more deference

1 because we have to vote on other issues.

2 I deplore the actions that you had to face.
3 Hopefully, we, as a society, can react in a manner that will
4 palliate those things from going on and on and on. But in the
5 political forum, I must, in spite of the fact, as Mr.
6 Caltagirone obliquely again referred to the battles have been
7 won by the anti-choice groups. They have not been overbearing
8 or repugnant in their assaults against me as a politician who
9 has been identifying with the other side. So, I guess in
10 society, at least at the political level, in spite of some
11 rigorous campaigns in the political trenches where elections
12 were made, on a day-to-day basis, unlike ~~Miss~~ Josephs, I have
13 not been receiving threats, I have not been receiving
14 comments replete with animosity from any corridor. And I only
15 share that because I think it is important to at least, in the
16 way we conduct business here, I have not had to experience
17 that. Hopefully, we can continue from this point forward to
18 have this dialogue without those kinds of incidents. Thank
19 you very much for being with us.

20 MS. STRAUSER: Thank you.

21 REPRESENTATIVE KOSINSKI: Mr. DeWeese, we will
22 pray for you, too.

23 CHAIRMAN DEWEESE: Thank you, Mr. Kosinski. The
24 Chair welcomes Miss Olivia Gans, American Victims of Abortion.

25 MS. GANS: Mr. Chairman, members of the Committee,

1 I want to thank you for this opportunity to address you on
2 the matter of House Bills Nos. 1361 and 1362.

3 I am Olivia Ganz, Director of American Victims of
4 Abortion, which is based in Washington, D.C., which today is
5 buried under 16 inches of snow. And if you want to know how I
6 got here to join you today, it was by dogsled. At least that
7 is how my body feels.

8 In the view of our members here in Pennsylvania
9 and around the country, these bills need to be passed. I
10 would like to concentrate my remarks today on House Bill 1361,
11 but let me make a comment first on House Bill 1362. The
12 notion that any one life is not worth living due to a severe
13 handicap is the kind of thought that led many members of
14 American Victims of Abortion to abort their children. All of
15 these women now regret that decision very seriously.

16 House bill 1362, as it is written, is a very
17 positive step towards preventing the exploitation of children
18 and their parents when they are faced with such difficulties.

19 It should be of great concern to all of us that
20 once again life is being treated as a commodity which must
21 meet certain standards to be of value. Wrongful life and
22 wrongful birth actions reflect uncaring and dangerous attitudes
23 about some of the most vulnerable members of our society.

24 As regards House Bill 1361, American Victims of
25 Abortion is very interested in the outcome of this bill. All

1 the members of American Victims of Abortion are women and men
2 who've had abortion experiences. We are deeply concerned about
3 what happens when women seek advice and assistance with a
4 crisis pregnancy.

5 Members of AVA, in fact, filed an amicus curiae
6 brief in the recent Thornburgh Supreme Court case which
7 relates to this bill. One of those ladies, Suzi Dewing, was
8 from Pennsylvania. AVA feels quite strongly that the women of
9 Pennsylvania can only benefit from the passage of House Bill
10 1361. Also, for the Chairman, I have one copy of the amicus
11 curiae brief. Others can be obtained, if you are interested.
12 But I think our position on that would be of much interest to
13 a committee who is thinking over this newly introduced version
14 of the original bill.

15 In my position as the National Director of AVA, as
16 well as from my own experience, I am deeply aware of the
17 problems that women face when they make decisions about their
18 pregnancies. Women seek information about abortion when they
19 are faced with real problems in their lives.

20 When I was pregnant in 1981 in New Jersey, I was
21 an unemployed, unwed, part-time student. My baby's father
22 faced the same circumstances. Fear of hurting my family, and
23 his, losing his love, and ending my career goals, drove me to
24 seek a doctor's help. In fact, I sought the advice of three
25 doctors and a Planned Parenthood counselor. For various

1 reasons, we had to hunt to find someone we could afford,
2 et cetera, a few other complications.

3 I want to tell you about the advice I was given by
4 each of these people. I made it clear that I had doubts, I
5 was unsure about getting an abortion, but that the baby's
6 father felt very strongly that I should do it. Each of those
7 professional people told me almost verbatim that I was being
8 selfish, that I was immature and irrational and not to go
9 through with the abortion. No one took the time to help me to
10 look seriously at other options, or to consider my fears or my
11 needs. I went through with the abortion more to stop the
12 pressure than anything else.

13 Before the actual operation was performed, no
14 explanation was given to me about what would happen, how
15 painful it would be, what instruments or devices would be used
16 on my body or what I would feel like afterwards. And I can
17 assure you I felt miserable.

18 My experience is not unique. AVA works with
19 post-abortion support groups around the country -- around
20 Pennsylvania. The women of your state tell stories that differ
21 little from my own. Mrs. Suzi Dewing of Warren Center,
22 Pennsylvania, is the AVA director here. She was going to be
23 with us this morning, but as you know, snow is everywhere.
24 She could not get down. She is so far north, but she is
25 available to work with you. She also works closely with a

1 major national women's support group, Open Arms. She attests
2 to the lack of good information given to women here in
3 Pennsylvania about their pregnancies or the abortion procedure
4 in the letter in your packet from AVA.

5 Perhaps more than anything else it is urgent that
6 information about post-abortion syndrome (PAS) to made
7 available to women making abortion decisions. The quickly
8 accumulating psychological research on PAS is documenting what
9 a serious mental health threat American women are facing in
10 the wake of the abortion carnage. So serious, in fact, that
11 the President has asked the Surgeon General to prepare a full
12 report on post-abortion complications -- including PAS. AVA'
13 is working closely with his office on that.

14 Along with vital information about the physical
15 complications of abortion, emotional repercussions must be
16 thoroughly discussed and understood before a woman can make a
17 real decision.

18 Post-abortion syndrome cannot always be totally
19 predicted for a patient prior to an abortion, but the possibility
20 should not be ignored. Those of us who are members of AVA
21 come from many backgrounds, but all of us have dealt with some
22 amount of post-abortion trauma. Feelings of grief, guilt,
23 anger, hopelessness, confusion, sexual dysfunction, depression
24 and self-destructive tendencies are quite common among PAS
25 sufferers. Often a period of denial or repression occurs that

1 can last ten years or more.

2 None of the women who have contacted AVA from
3 Pennsylvania were informed beforehand of the potential
4 emotional scars they would later suffer from the abortion
5 experience.

6 The fact is that for many women abortion is a last
7 resort, a choice made without the benefit of knowledge of
8 other options and resources. House Bill 1361 would wisely
9 require the discussion of those medical and monetary options
10 available to a woman who may be totally ignorant of them. Too
11 many women abort because they feel they have no choice.

12 We want to believe our doctors when we seek their
13 guidance. Where abortion is concerned, we want to believe
14 even more. But abortion is shrouded in secrecy. Rarely is
15 there any prior doctor-patient relationship. Rarely is there
16 any follow-up care. Most of us see these people once in our
17 lives and then never again.

18 AVA supports the 24-hour waiting period, we
19 support all the requirements about what information a woman
20 must be given in that period. We also support the need to
21 involve parents or fathers in the abortion decision. Women
22 need the support of their families at this most critical time.
23 I wish I had turned to mine. It is becoming more and more
24 apparent that these people also suffer from variations of PAS.

25 AVA also supports the wise inclusion of a judicial

1 bypass for situations involving abuse or incest and the
2 exception for medical emergencies to protect the lives of
3 mothers.

4 To further benefit your knowledge about
5 post-abortion syndrome, I have prepared a packet in which I
6 intended to include letters, this is a digression here. The
7 capitol was completely closed down because of the snow
8 yesterday. The letters I would like to bring to your attention,
9 which I would like even still to have included in the record,
10 Mr. Chairman, are letters concerning the informed consent bill
11 on a federal level initiated by Senator Gordon Humphrey of
12 New Hampshire. These are letters that have come in to his
13 office from women in Pennsylvania who feel very strongly that
14 there is not enough proper information being given to women in
15 this state as a support to this federal informed consent law.
16 I think it should also be echoed here in Pennsylvania. If
17 those letters could be included, I will send them up to you
18 as soon as Washington opens up again.

19 CHAIRMAN DEWEESE: Certainly

20 MS. GANS: Thank you.

21 Please listen carefully to them as it is the life
22 and health of --

23 CHAIRMAN DEWEESE: How many do we have here?

24 MS. GANS: Well, we are talking about, I believe
25 if his aide is correct, he thinks about 50 letters. This has

1 only been gathered in the last few months, about 50 letters.

2 I can make selections of that 50 if that would be helpful.

3 CHAIRMAN DEWEESE: That would be preferable.

4 MS. GANS: Fine. Please listen carefully to them
5 as it is the life and health of other such women whom you are
6 in a position to protect with this bill, House Bill 1361.

7 I will be happy to answer any questions you have.
8 Thank you for the opportunity to speak to you today. And
9 please pass House Bill 1361 and put into effect these
10 protective measures for the women of this state, for their
11 families and for the doctors as well.

12 CHAIRMAN DEWEESE: Thank you, Olivia. Are there
13 questions from the membership? Miss Josephs.

14 REPRESENTATIVE JOSEPHS: Thank you, Mr. Chairman.

15 BY REPRESENTATIVE JOSEPHS:

16 Q Miss Gans, I don't know if you were here for the
17 last witness but --

18 A Yes, I was.

19 Q I would like you now here to make a statement, in
20 a public forum, that you discourage violence, harassment and
21 intimidation among your constituent following.

22 A I have absolutely no problem making such a
23 statement. Let me make it publicly clear that I consider
24 violent activity of any nature, including the violence that
25 goes on inside of abortion facilities on women and children

1 and outside abortion facilities, to be completely unacceptable.
2 There is no reason to resort to violence. There are enough
3 arguments to be raised through the Science of Fetology,
4 through the understanding of PAS, that we could come to some
5 point where we can protect women and help their children
6 without resorting ever to violent tactics towards any person
7 who may be involved with the abortion act.

8 REPRESENTATIVE JOSEPHS: Thank you. And I have a
9 question, Mr. Chairman.

10 CHAIRMAN DEWEESE: If it is appropriate, please
11 continue.

12 BY REPRESENTATIVE JOSEPHS:

13 Q Is the ultimate political legislative goal of AVA
14 to end legal abortion?

15 A If it is possible to end legal abortion this
16 afternoon, I would like to see that happen. Because, as
17 director of a national organization that is involved with
18 women who have sought abortions for every reason conceivable
19 under the sun, we have never found in our personal lives that
20 abortion solved the problem. For a period of time there is
21 a sensation of relief. Immediate crisis has passed. But as
22 most of us have come to discover, some five, ten or more years
23 down the road, our lives are still in crisis very often as a
24 result directly of the abortion. At this point in time, the
25 immediate objective of AVA, as an agency in Washington, D.C.,

1 is to encourage this type of legislative activity. It is not
2 going to make it impossible to get an abortion, but simply
3 guarantees that laws that may already be on the books regarding
4 informed consent and medical procedures are enforced. Right
5 now in most states, what laws do exist regarding informed
6 consent and medical procedures, are not adequately enforced at
7 abortion facilities. That is what this law could change.

8 Q But I am not incorrect in stating that your
9 long-range goal is the eventual recriminalizing of all
10 abortions?

11 A Again, I have to agree with an earlier statement
12 that was made. There is a negativism that you are projecting
13 into the activities of this hearing. I don't believe that is
14 necessary. This is a positive bill. I would like to contain --

15 Q I asked a question about --

16 CHAIRMAN DEWEESE: She doesn't have to answer, Miss
17 Josephs.

18 MS. GANS: I didn't say I didn't want to answer.

19 BY REPRESENTATIVE JOSEPHS:

20 Q If you don't want to answer, please say so.

21 A I am in the process of answering the question.
22 The question is an important one, but today we are dealing
23 with steps that could be taken that should not be in any way,
24 shape or form impossible for any member of this legislature
25 to support. We are concerned about women like myself. Women

1 who found our lives in crisis. Women who did not know how to
2 find the strength either in ourselves or from those people who
3 are close to us to go through with the pregnancy. We didn't
4 know what monetary support was available either from the
5 state or private agencies. We didn't know enough about adoption
6 laws. We didn't know enough about laws requiring the support
7 of negligent fathers. And for those of us who felt obliged to
8 abort our children for those circumstances is crucial that
9 laws like this be put into play. There is no reason for a
10 women who is in a crisis pregnancy to not have time to
11 investigate all her options. But she can only do that if
12 someone takes the time to explore them with her.

13 CHAIRMAN DEWEESE: Comments, yes, Miss Hagarty.

14 BY REPRESENTATIVE HAGARTY:

15 Q Do you believe that it will help a woman in crisis
16 at this difficult time to have to notify the father of the
17 unborn child?

18 A Let's be honest and face the facts, very often the
19 father of the unborn child will encourage the abortion. The
20 father of my unborn child did. It was not a situation where I
21 could honestly say that man would not have pushed with all his
22 physical might had he needed to do so.

23 Q Therefore, you do not believe that we should
24 mandate that the physician should have a verified statement
25 that the partner in the pregnancy has consented to the abortion?

1 A Quite clear, if I understand the bill correctly,
2 and I would like to make it clear that I hadn't known about
3 this hearing and I had only a few days to prepare for it. But
4 what I understand of the bill, there is already included a
5 bypass situation if that woman should in any way, shape, feel
6 threatened, in jeopardy for either her physical or mental health,
7 if she includes the father or her parents in the situation.
8 So, we are not really talking about women being obliged to
9 talk to people who are going to become abusive.

10 But most of the cases that we work with in AVA,
11 women who did not involve the husbands or fathers of their
12 children, find out too late that that man would have been
13 supportive. Perhaps would have been supportive of the abortion
14 itself or would have at least made some attempt to encourage
15 her to go through the pregnancy with his full support
16 emotionally and monetarily. Now, to turn him out at that time
17 is to completely ignore what we might be saying to him later on
18 if she goes through with the pregnancy. That same man that we
19 close out in the abortion decision is the same man who is
20 legally responsible for child support for some 18 years after
21 the birth regardless of his opinion on the abortion.

22 Men also suffer from post-abortion syndrome. I
23 think I want to make that very clear. Post-abortion syndrome
24 is not looked upon as solely a women's health issue. Men are
25 dealing with a variation of post-abortion syndrome, both men

1 who did not know about the abortion and men who did.

2 Q Are you aware that when you encourage women that
3 there may be child support what the statistics are nationally
4 on the realization of collection of child support in this
5 nation?

6 A I totally agree with you. We need to have a lot
7 more effort put into making sure that programs like that are
8 made available, that they are followed up on, that there is
9 some degree --

10 Q Should we inform women that the likelihood of a
11 support order is less than one-half and the likelihood of that
12 being enforced is less than one-half while we are informing
13 them of the details of what might occur?

14 A Yes. You should inform her of that. You should
15 inform her of that because it does allow her to be prepared
16 for what she may have to cope with. I am not opposed to
17 informing of the good and the bad --

18 Q Do you --

19 CHAIRMAN DEWEESE: Miss Hagarty, please don't
20 interrupt the Witness.

21 MS. GANS: The good and the bad is extremely
22 important. I am not trying to hide the truth. When a woman
23 is in a crisis pregnancy, she is not dealing in fairy tales.
24 She is dealing with reality and she may be alone and she needs
25 to prepare for that regardless of what her decision is. She

1 is alone, whether she has the child or whether she aborts.

2 CHAIRMAN DEWEESE: Mr. Heckler from Bucks County.

3 REPRESENTATIVE HECKLER: Thank you, Mr. Chairman.

4 BY REPRESENTATIVE HECKLER:

5 Q Just one question. Could you tell the Committee
6 what AVA does for its members and for others who, as you
7 describe it, are still in crisis many years after having
8 undergone an abortion?

9 A AVA, as I mentioned in my statement, works very
10 closely with a number of national peer-to-peer support groups
11 similar to, I guess you would say Alcoholics Anonymous, or
12 other types of personal life crises groups. And we refer,
13 if I speak somewhere, if any of our members, perhaps Mrs.
14 Dewing, if we speak at a public gathering and someone comes to
15 us and appears to be in a crisis state or a traumatic state,
16 we refer them either to one of the peer-to-peer support groups
17 or if we feel it is necessary, if they are in serious turmoil,
18 we're talking about serious psychiatric disorder, we refer
19 them to one of a number of psychologists and psychiatrists
20 that we are working with. In your pamphlet there, in the
21 package, excuse me, there is a newsletter from the Association
22 for Interdisciplinary Study Research and Values and Social
23 Change. That organization is a national organization that is
24 linking together professionals, therapists and others who are
25 available around the country for this type of psychiatric care

1 or psychological care. And we are very concerned about making
2 sure those women get the help they need and those men.

3 Q Then roughly, how many members are there of your
4 organization nationwide?

5 A We work as a 50-state organization. I have
6 contacts in all 50 states. You must understand that AVA is
7 the public arm of the post-abortion movement. There are very
8 few women who really can go public with their abortion stories.
9 It is really a private part of our lives. It is not an
10 organization built on membership. I do not expect that the
11 most women who have had abortions ever will be able to go
12 public. It is far too a secret time in their lives. So, what
13 we do have though is a network through all 50 states and
14 internationally. Both Great Britain and Canada are linked to,
15 they have Canadian Victims of Abortion, they have British
16 Victims of Abortion, are sister organizations. And Australia
17 is also part of this as is Norway and Sweden and Denmark.

18 Q Can you tell me how many referrals, roughly, have
19 been made by your organization of women who are in this turmoil
20 to appropriate counseling?

21 A I can tell you that, for instance, in the city of
22 Cincinnati, the AVA director there tells me that into the
23 Cincinnati Post-Abortion, Central Post-Abortion support group
24 alone per month there are 60 to 70 new members participate in
25 the program per month. In Boston the number is as high as,

1 over the last three months, Mrs. Thorpe told me that they have
2 had 150 new people come in in the last three months to their
3 program in Boston in that system in the central city area.

4 Q And all of these people you are referring to are
5 women who have had abortions and are now in the --

6 A Some are not women but men who feel that they are
7 uncomfortable with the abortion event that they were a
8 participant in.

9 REPRESENTATIVE HECKLER: Thank you, Mr. Chairman.

10 CHAIRMAN DEWEESE: Any further questions? Mr.
11 McHale.

12 BY REPRESENTATIVE MCHALE:

13 Q Miss Gans, you note on the first page of your
14 testimony, "The notion that any one life is not worth living
15 due to a severe handicap."

16 A Yes.

17 Q As a result of that principle, you advocate
18 passage of House Bill 1362?

19 A Yes.

20 Q Let me say that I have voted for that legislation
21 in the past and I will vote for it again. My concern though
22 and this question really is, there seems to be a selective
23 sensitivity on the part of some individuals who vote with me
24 on this particular legislation. I, too, reject the notion that
25 economics should be the basis for a woman to choose to

1 terminate her pregnancy. Does your organization, has your
2 organization lobbied in the past for improved social programs?
3 So that a woman who chooses to go forward with her pregnancy,
4 knowing that perhaps the child will be born with severe
5 infirmities, will also have knowledge that competent, capable,
6 well-funded public programs will be available to assist her if
7 and when the child is born and she needs financial help to
8 address the child's medical care and related problems.

9 A Absolutely. In some of the states, the members of
10 AVA have worked with the state legislature and had an
11 opportunity to really move forward a better awareness of
12 exactly what drives women to feel abortion is their only
13 answer. And it is crucial that, when possible, citizens really
14 push their state government for that kind of help. Now, let's
15 face the fact as was mentioned before, it is true that
16 government funds are not the only way to address the problem.
17 It is sometimes better actually to refer a person to a private
18 support system. That is a decision that needs to be made by
19 the individual and sometimes that individual's counselor or
20 doctor or otherwise.

21 But the truth is that it would be foolish and
22 negligent not to be supportive of those types of programs.
23 And I think there is a whole wide variety of programs that are
24 yet to be developed in most of the states.

25 Q I agree. I think that is extremely important in

1 my view, fewer women will choose voluntarily to exercise their
2 constitutional right to terminate a pregnancy if they know
3 that they will have the support and compassionate social
4 programs, both public and private, in the event they choose to
5 go forward with the pregnancy and the child is ultimately
6 born needing that kind of assistance. I would suggest to you
7 that among the members who support House Bill 1362, there is a
8 need to emphasize that support for House Bill 1362, must be
9 combined with much greater support for public programs to
10 assist young indigent women who choose to go forward with
11 their pregnancies and thereafter face some very practical
12 problems in terms of what is in the child.

13 A Even if they are not indigent women, I think what
14 we have to face here is that we are not really always talking
15 about only hard cases. Very often a woman who might look to
16 you and I as a very healthy, mature woman in every other
17 respect, may find that they are personally unable to cope with
18 the present situation. And it is those women that oftentimes
19 get turned out of the very programs that we are talking about
20 because someone looks at that woman and says, well, you can
21 handle it or your family comes from a good part of town or
22 whatever. And that woman doesn't receive the support that she
23 needs. So, I think what we have to realize here is that it is
24 extremely important, because that would be my case. Because
25 if you looked at me and you knew my family background, you

1 would say, you've got resources. You can take care of
2 yourself. But I didn't have resources. I was not able to
3 tap into those things. So, we have to make it clear that the
4 woman in question is an individual, every time we see a woman.
5 We cannot lump ^{all} women seeking abortions into one pot. We must
6 address her needs at that time. We must provide all the
7 resources possible. I really suggest any individual on this
8 Committee who has doubts about the worth of putting money into
9 those programs, think again. Because to ever say to a woman
10 carrying a handicapped child, your child isn't worth our time,
11 your child isn't worth the time or the money it's going to
12 take to get that child on whatever standing they can get. A
13 severely handicapped child may not meet the legislature of
14 this state but we cannot ignore that woman's needs or her
15 child's needs.

16 Q I agree with you completely on that point. I would
17 simply emphasize to you that among many members who will vote
18 with you on House Bill 1362, there is a lack of sensitivity to
19 provide adequate funding to assist that young mother after the
20 birth of the child.

21 A We can't let that go on. There has got to be an
22 effort. You can't say yes without saying yes to the other.

23 Q I agree. But there is some folks who say yes on
24 the first question and no on the second. I would urge you to
25 continue your lobbying effort, particularly in terms of

1 increasing funding for those kinds of compassion and social
2 programs that come into play after the birth of the child.

3 A It will have our full support.

4 REPRESENTATIVE MCHALE: Thank you, Mr. Chairman.

5 CHAIRMAN DEWEESE: You are welcome, Mr. McHale.

6 The Chair would like to welcome Mr. Reber. Mr. Reber from
7 Montgomery County also has a question. Bob.

8 REPRESENTATIVE REBER: Thank you, Mr. Chairman.

9 BY REPRESENTATIVE REBER:

10 Q Do you have a copy of House Bill 1361 in front of
11 you?

12 A It is in my briefcase.

13 REPRESENTATIVE REBER: Will somebody provide her
14 with a copy?

15 BY REPRESENTATIVE REBER:

16 Q While they are doing that, in listening to your
17 testimony on page three and four, you brought up, you reiterated
18 on a number of occasions what could be characterized as a
19 theme. It is urgent that information about PAS be made
20 available to women, the vital information must be thoroughly
21 discussed. You referenced a woman, who is the director of AVA,
22 the fact that it is important to disseminate information on
23 these issues. On page four you went on to say that a choice
24 made without the benefit of knowledge of other options.

25 And I think your whole concern is that someone in

1 this very troubled situation should be given the opportunity
2 for full and robust considerations of all the options
3 regardless of which way they may desire to go. Would that be
4 a fair statement?

5 A Yes. There is no doubt the way this current bill
6 is written, it doesn't make it impossible for a woman to seek an
7 abortion. I can personally feel, from what I have learned in
8 my position as this organization's director, that from the
9 testimony both publicly and privately that I have been privy
10 to, that abortion never seems to help. But I cannot stop a
11 woman from having an abortion as this bill is written nor would
12 I try to physically stop her. I am hoping that, given the
13 opportunity to understand the danger to her own health, her
14 psychological health, to understand better what is going on
15 inside of her own body, that what is happening to her is going
16 in this and thus patterns, knowing that there are options and
17 resources available to her if she is in a crisis situation,
18 that she will choose not to abort. But this bill doesn't
19 prevent her from aborting and I am not trying to make it
20 prevent her from aborting. I am simply trying to make sure
21 that we stop hiding the truth from women.

22 CHAIRMAN DEWEESE: Representative Reber, can you
23 speak louder? The Court Reporter is having a hard time.

24 REPRESENTATIVE REBER: Excuse me, Mr. Chairman,
25 but my microphone seems to be missing.

1 CHAIRMAN DEWEESE: You are welcome to join us
2 here.

3 BY REPRESENTATIVE REBER:

4 Q The reason I wanted you to have the bill is, I
5 would call your attention to page 23 and the first part of
6 page 24. That section of the bill that speaks about public
7 funding for legal services. And if you look at the first line
8 on page 24, followed by the prohibition of the type of
9 discussion which would advocate the freedom to choose
10 abortion or the prohibition of abortion, it seems to me that
11 this section runs directly opposite to some of the philosophies
12 that you epostulate in the free, robust and informative
13 aspects in the pre-abortion situation of some women like
14 yourself. And the reason I say that is, and it is sort of a
15 follow up to what Representative Hagarty was doing on the
16 support ramifications as to what may or may not ultimately
17 happen in that particular arena. I was wondering what your
18 thoughts are on this type of section in a bill prohibiting, in
19 my mind, in a number of ways, which goes against
20 attorney/client privileges, goes against first amendment
21 freedom discussion aspects and whether in fact that is fair to
22 have in a bill of this nature where there is public funding
23 for legal services needed for a low income segment of our
24 society. But yet, you are giving to those people not all of
25 the full, informative aspects surrounding and most of that

1 would be the practical legal aspects of the situation that
2 might impact upon the pre-abortion consideration. That is
3 where it seems to me, as I listened to you, as I read your
4 statement and reread your statement, as you were discussing
5 with other members this section, this concept, this philosophy
6 embodied in this chilling effect, if you will, on free
7 discussions of the issues you were earlier talking about runs
8 a countervailing philosophy as to where you were originally
9 going. I'm just wondering if you have any thoughts on that
10 particular area?

11 A As I said before, I have not had a great deal of
12 advance notice about this hearing. But I must admit that I am
13 not really feeling secure in addressing these particular points
14 of view that you have brought up here without trying to read
15 it through. But I will say this as regards poor women or
16 women who are in bad enough situations who we tend to look
17 upon as women who will always suffer the most from lack of
18 easy access to abortion. If this supposedly is limiting their
19 easy access to abortion, then perhaps what we have to look at
20 is how many times do women, who are really in serious economic
21 situations, seek abortions. The truth is that in most states
22 now we are still dealing with situations where the great
23 majority of women who get abortions are low, middle class
24 economic structure to moderate economic --

25 Q Can I interrupt you?

1 A And I think we are making judgments that the best
 2 thing we can do for poor women is to help them more easily
 3 eliminate their children. That doesn't solve the problem of
 4 poverty to kill a poor woman's child if she is still poor.

5 CHAIRMAN DEWEESE: Mr. Reber, you are recognized.
 6 BY REPRESENTATIVE REBER:

7 Q I am not really suggesting that as where I want to
 8 go with this discussion. Maybe I can characterize it this way.
 9 Unlike Justice Bork, I did some pro bonno work early in my
 10 career. Frankly, I feel like I still do it every day in the
 11 week. Be that as it may, in many instances many of these
 12 low income people who might show up at the legal aid society
 13 are past repeating clients. They have developed a
 14 relationship possibly with that legal services attorney. They
 15 have developed a relationship where they feel very comfortable
 16 speaking about a very, very trying situation. I have sort of
 17 gotten into the flow of that listening to you.

18 It seems to me as this bill is written in this
 19 particular section, that from what you said, a person who
 20 wants to have a full, informed discussion on the issue could
 21 make up her mind, is in fact in some ways possibly prevented
 22 by legal services attorneys feeling infringement of this
 23 particular concept as embodied in this bill. I guess that is
 24 where I was going, and the reason I can't do that as opposed
 25 to someone else, because in your constructive affirmative

1 remarks initially it seemed to be very important to you to get
2 as much input professionally and otherwise on all aspects of
3 the subject before you make whatever that decision is.

4 Hopefully, not to go through with the abortion.

5 A Could I ask you to clarify just a little bit,
6 because as I said, I have not, as I have actually said, looked
7 at the whole bill. Can you clarify for me what this section
8 is going to do in your mind?

9 Q It would appear to me that it says no funds may be
10 used, which in essence --

11 A No funds may be used for what?

12 Q No public funds can be used to advocate the freedom to
13 choose abortion or the prohibition of abortion to provide
14 legal assistance in regard to various proceedings. It may be
15 necessary for that individual to secure information that is
16 otherwise not available except through a legal proceeding.
17 And it shouldn't be --

18 A I don't think that the bill is intended to
19 inhibit an individual in economic straits to accede legal
20 counsel --

21 CHAIRMAN DEWEESE: Yes, it is, unequivocally.

22 MS. GANS: It is?

23 CHAIRMAN DEWEESE: Yes, ma'am. Page 23 and page
24 24.

25 MS. GANS: Hang on, okay. I am hoping that it is

1 not the intention of the bill, but if you tell me that it is,
2 then I am not going to say yeah or nay. What I am going to
3 say is, I am hoping it is not. So, in other words, if there
4 is a problem, it is going to be up to the Pennsylvania
5 legislature to change it. But what I have to say to you is,
6 there is a problem, I think, that some people maybe foreseeing
7 in certain secret situations where we are talking about public
8 resources or people who are provided to in a public situation.
9 That oftentimes is more strenuously pro-abortion in its
10 advice or counsel than it necessarily should be or that
11 individual necessarily should be. I am not saying they all
12 are. I am saying there apparently has been some fear of that.
13 That may be the intention, the prevention of people who are
14 trying to seek here, the people who might, in their fear, be
15 advocating almost always the pro-abortion point of view be
16 curtailed in that advocacy and abortion point of view.

17 Now, if that is not correct, then you are going to
18 have to talk to the Pennsylvania people. I may suggest at
19 this point that that may be a better course of action.
20 Because I am not exactly sure, perhaps Mr. Freind could be
21 the best source of information to you on the intentions he
22 has at this point.

23 As far as I understand it, the bill has been
24 revamped to concur with the Thornburgh decision which was the
25 judgment from the Supreme Court regarding the original bill

1 some now three years ago. This bill is, supposedly as I had
2 been told according to counsel, constitutional both for here
3 in Pennsylvania and nationally.

4 CHAIRMAN DEWEESE: Just for your awareness, this
5 is new language. This is new language.

6 MS. GANS: Not all of it, is it?

7 CHAIRMAN DEWEESE: No, no. Just the part Mr. Reber
8 is trying to bring out about legal services.

9 Mr. Reber is recognized, then Mr. Kosinski and
10 then Mr. McHale.

11 REPRESENTATIVE REBER: Thank you, Mr. Chairman.
12 I appreciate you recognizing me before Mr. Kosinski because I
13 do know his views on this issue. The young lady, who I think
14 can provide us a much more indepth insight as to the impact
15 ramifications of a provision like this is what I am more
16 interested in today.

17 CHAIRMAN DEWEESE: The Chair had that feeling.
18 ~~to~~ ahead.

19 REPRESENTATIVE REBER: Frankly, Mr. Chairman, I
20 think we have dominated the discussion. The point has been
21 made and I'll conclude. Thank you.

22 CHAIRMAN DEWEESE: The gentleman, from
23 Philadelphia, Mr. Kosinski, is recognized.

24 REPRESENTATIVE KOSINSKI: On Representative Reber's
25 point, many times public funds are used to promote abortion

1 services and that is what the prohibition in the bill is
 2 attacking. The same way with my amendment to the IOLTA Bill,
 3 when they do come up next week. We are trying to provide for
 4 an abortion neutral setting that does not allow or does not
 5 prohibit the groups from coming in to court and using
 6 nonpublic funds. Many times groups on both the pro-abortion
 7 side and the prolife side use their own funds raised from
 8 private sources to litigate a claim. So, it would not
 9 prohibit a woman on the pro-abortion side from doing the same,
 10 getting funds from private sources. I think that is where the
 11 confusion exists here.

12 CHAIRMAN DEWEESE: Thank you. The Chair recognizes
 13 Mr. McHale.

14 REPRESENTATIVE MCHALE: Thank you, Mr. Chairman.
 15 Abraham Lincoln once said, there are very few things,
 16 particularly in public policy, that are wholly good or wholly
 17 evil.

18 This is a very complex bill, and frankly, there
 19 are portions of this bill which I fully agree. On page 23
 20 though, with regard to this action of legal services,
 21 pertaining to legal services, I don't think there is one
 22 chance in a hundred that this is constitutional. Mr. Kosinski
 23 and I have had this debate once before. Unfortunately, at
 24 the time we had the debate on the floor of the House of
 25 Representatives, neither one of us was aware that on very

1 similar facts the Supreme Court has already ruled that you may
 2 not deprive an individual of public funds if that person
 3 chooses to exercise freedom of speech on a topic that is
 4 constitutionally protected.

5 I have grave concerns about this particular
 6 paragraph. It deals not only with public funds, but as Mr.
 7 Kosinski indicated, it deals with private funds raised through
 8 the IOLTA Program. It just seems to me to be completely
 9 contradictory to require, and I think appropriately so, that a
 10 woman have all relevant medical information be made available
 11 to her at the time she is deciding whether you not to terminate
 12 her pregnancy. But to simultaneously deny her legal counsel
 13 on that same issue, this, I think, is a very serious flaw in
 14 the bill and one where I have absolutely no doubt that to
 15 deprive a woman, a poor woman of publicly funded legal counsel,
 16 when she seeks to litigate her rights either for or against
 17 abortion, is a blatant violation of the constitution.

18 I would have great difficulty, even if I agreed
 19 with the entire rest of this bill, voting for it in light of
 20 this particular provision. I sincerely hope that when we get
 21 the bill to the floor this provision is no longer there.

22 MS. GAN'S: Well, again, I feel inadequate in
 23 regard to this particular section of the bill. But I want to
 24 make it clear that I believe, and I don't like feeling
 25 inadequate with information of the circumstances and it makes

1 me uncomfortable that I cannot provide you with the answer
2 that I think you deserve to have. But I do want to make it
3 clear, I can tell you quite honestly, that the forces in the
4 groups that are encouraging passage of such legislation have
5 in no way, shape or form, to my knowledge at this point in
6 time, ever personally as groups, had it as a part of their
7 plan or concern to make it impossible for women to receive
8 whatever help is necessary. Whether that be legal care,
9 medical care, financial care, social care. So, from a
10 movement point of view, from a philosophy point of view, that
11 is not the intention of the movement. If there is something
12 that is needed to be clarified in this bill, you are going to
13 have to deal with the legislative folks on it.

14 REPRESENTATIVE MCHALE: I agree with your philosophy
15 as you have just voiced it. It is in direct opposition to the
16 specific provisions of this will.

17 In closing what I would emphasize is, this
18 particular portion of the bill is abortion neutral. This
19 would deny access on the part of the poor woman to legal
20 services, whether she chose to, and I quote, "procure or
21 prevent" public funding for any abortion. This portion of
22 the bill is abortion neutral. It is anti-legal services.
23 It denies legal services to a poor woman who wants to
24 litigate on either side of the issue. And I think to deny
25 a poor woman legal services, again, on either side of the

1 question is a blatant violation of the U.S. Constitution.

2 MS. GANS: For the record, I am opposed that poor
3 women be denied what they need. In any circumstance I would
4 like to make it clear that I think what sometimes has to
5 happen in a situation like this or others of a similar nature
6 is that sometimes people who are moving to make the changes
7 that we deem necessary to protect individuals have to take a
8 loss. Perhaps what is happening here is the abortion
9 neutralization is recognizing something that might be injurious
10 to both sides. Perhaps there is another way that this can be
11 worked out down the road or the next step. Perhaps what they
12 are talking about is the next step situation. Very often, as
13 you know, as a legislator, sometimes you must take this step
14 today and tomorrow you take care of what had to happen as part
15 of that first step. The pragmatic view of what needs to be
16 done today.

17 REPRESENTATIVE MCHALE: I don't think we ought to
18 be pragmatic in the sense of the constitution.

19 MS. GANS: No, I don't. But sometimes that is the
20 thought that may be going on.

21 REPRESENTATIVE MCHALE: I understand the philosophy.
22 I just think it is implementing it in an unlawful way. Thank
23 you, Mr. Chairman.

24 CHAIRMAN DEWEESE: You are welcome. The meeting
25 will adjourn until 1:15. I'm sorry, Mr. Piccola, I forgot

1 about you. We'll take a five-minute break because the Court
2 Reporter is ready to collapse.

3 (Brief recess.)

4 CHAIRMAN DEWEESE: The hearing will now come to
5 order again and the Chair welcomes Mr. Francis J. Viglietta of
6 the Pennsylvania Catholic Conference. The gentleman, Mr.
7 Philip Murren, Esquire. Welcome, Frank and Phil. Good afternoon.

8 MR. VIGLIETTA: Good afternoon to you and the
9 other members of the Committee.

10 I am Francis J. Viglietta, Director of the
11 Department of Justice and Rights of the Pennsylvania Catholic
12 Conference. In case you are wondering, our Executive Director,
13 Howard Fetterhoff, collaborated with me in the preparation of
14 this testimony and would be here to present it himself had it
15 not been for a brief stay in the hospital which was scheduled
16 before the date of this hearing was known.

17 With me today is Mr. Philip Murren of Ball, Skelly,
18 Murren and Connell, legal counsel to our conference. Mr.
19 Murren is familiar with every aspect of this legislation and
20 will be happy to reply to any legal questions the members of
21 the Judiciary Committee might have.

22 As you know, the Pennsylvania Catholic Conference
23 represents the Catholic Dioceses of Pennsylvania, and has had
24 the right to life of all Pennsylvanians from the moment of
25 conception until natural death as one of its top priorities

1 since long before Roe vs. Wade. This testimony will cover as
2 briefly as possible the reasons for our support of both of
3 these bills, or of any other legislative vehicle available or
4 necessary to enact their provisions.

5 Because the testimony is lengthy, I will summarize
6 our key points.

7 The Abortion Control Act (House Bill 1361)

8 In covering the Abortion Control Act, the longer of
9 the two bills, we will limit ourselves to broad policy and
10 strategic considerations. For a thorough explanation of the
11 act's major provisions, we refer you to the comprehensive,
12 eight-page description provided by the bill's sponsors at the
13 time of its introduction. We need not duplicate the details
14 in that paper during this testimony.

15 But we as a conference are frequently asked why
16 this abortion issue keeps coming back session after session.
17 And why, if attention is paid to decisions of the United
18 States Supreme Court as abortion-control legislation is
19 enacted here and in other states, does that court keep striking
20 it down? Are we not subjecting legislators to unnecessary
21 political hardship by repeatedly bringing up this most divisive
22 of issues? And are not these hardships in vain in view of the
23 problems such legislation encounters in court? These are fair
24 questions and they deserve fair answers.

25 To begin with, the consistent prolife voting of

1 the majority of Pennsylvania legislators has not been in vain.
2 For one thing, whereas there were seven Justices who upheld
3 the abortion right in Roe there is currently less than a
4 majority of Justices who endorse the Roe holding. This was due
5 not only to some changes in the court's personnel, but it is
6 worth noting that former Chief Justice Burger who had voted
7 in the majority in Roe vs. Wade in 1973, had come to question
8 its validity later on. This would not have happened without
9 the consistent and courageous prolife efforts of the
10 Pennsylvania General Assembly.

11 Further, even despite setbacks in court, it would
12 be false to claim that virtually every prolife provision
13 enacted in Pennsylvania has been struck down. In fact,
14 Pennsylvania's lifesaving prohibition of using public funds to
15 put unborn children to death has been upheld by both the
16 United States Supreme Court and the Pennsylvania Supreme Court.
17 Thanks to the prolife enactments of our legislators, to see
18 and get to know the thousands of children who enjoy life today.
19 In light of this, the hardships legislators faced on this
20 issue seem to be small in comparison to the good being
21 accomplished and the lives being saved.

22 It is the arduous interaction between legislators
23 and courts at all levels which has made and will continue to
24 make prolife progress possible. The drafters of the
25 Pennsylvania Abortion Control Act passed in 1982, for example,

1 drafted with a careful eye on decisions of the Supreme Court
 2 up until that time, and those provisions which were struck
 3 down were done so on narrow and specific grounds explained by
 4 the court. The current bill contains refined drafting of each
 5 of those provisions closely tracking the court's opinion.
 6 While none of those provisions -- regrettably -- can prohibit
 7 an abortion, they can provide additional protection for unborn
 8 children whereby some of these children's lives will be saved.

9 A few short weeks ago, our nation demonstrated its
 10 basic prolife sentiments as we watched with rapt attention the
 11 television coverage of the heroic rescue of little Jessica
 12 McClure from that well in Texas. Of course, there was so
 13 Supreme Court decision prohibiting Jessica's rescue and we
 14 celebrated the saving of her life and honored the heroes who
 15 made it possible. But since January 22, 1973, children
 16 equally as human and as beautiful cannot be rescued from death
 17 in their mothers' wombs. We urge, therefore, the passage of
 18 the 1987 Abortion Control Act which will take us a few steps
 19 closer to the day when Roe vs. Wade is no longer our national
 20 policy and the lives of children in the womb will be
 21 recognized, revered and rescued from death as was the life of
 22 this child in the Texas well.

23 Wrongful Birth (House Bill 1362)

24 Although House Bill 1362 deals with both wrongful
 25 birth and wrongful life, and although both provisions are

1 extremely important, most of the controversy involves wrongful
2 birth, so we shall concentrate on that in this testimony.

3 "Wrongful birth" involves a suit by anyone (usually
4 a parent) against medical personnel for having negligently
5 permitted a child who has been conceived to have been born
6 alive and not aborted. (E.g., by failing to recommend tests
7 to determine a handicap that, if it had been discovered, would
8 have resulted in an abortion.)

9 Pennsylvania is one of the states in which
10 "wrongful birth" suits have succeeded. Since state legislatures
11 are empowered to create and abolish civil actions, it is urgent
12 for Pennsylvania lawmakers to reverse the trend toward
13 "wrongful birth" and "wrongful life" suits which are evolving
14 into an anti-life policy never anticipated in the years shortly
15 after *Koe vs. Wade*.

16 Why do we say this? First of all, "wrongful birth"
17 suits demean the value of human life. The major problem
18 addressed by House Bill 1362 is that without it the public
19 policy evolving in court cases holds that the birth of a
20 handicapped or retarded child is something someone should be
21 punished for, in this case a physician, usually an obstetrician
22 or gynecologist. Also involved in this policy is the notion
23 that life for a handicapped or retarded person is of lesser
24 value than life for a healthy person, so much so that death
25 before birth is preferable to life. House Bill 1362

1 contradicts that notion by upholding the sanctity of life and
2 asserting that no one's birth and no one's life should ever be
3 a cause of action and result in civil damages against anyone
4 else.

5 One cannot listen to debates on this issue without
6 noticing that the rhetoric of choice so much a part of the
7 abortion movement before and after Roe vs. Wade is slowly but
8 inexorably giving way to the rhetoric of coercion. Since
9 science makes it possible to detect genetic defects before
10 birth, it is argued, all doctors must alert pregnant women
11 about this, thereby initiating the way to eugenic abortion if
12 indicated. In essence, "wrongful birth" court decisions are
13 telling doctors treating pregnant women, "practice eugenic
14 abortion or pay the damages."

15 This is an impossible position for prolife
16 physicians who always recognize from their very first
17 appointment with a pregnant woman that they are caring for two
18 patients and the objective is to get both through the pregnancy
19 and to a safe delivery. The fact that the child in some cases
20 suffers some defect beyond his or the parents' control once
21 life has begun does not make that child less human or less
22 deserving of the physician's life-sustaining care.

23 The continuation of "wrongful birth" suits will
24 inevitably create such insurmountable pressure for eugenic
25 abortion that the practice of prolife obstetrics and

1 gynecology will be a thing of the past. We fear the risks for
2 all obstetricians will be so high that fewer and fewer
3 physicians will choose that specialty. Sound public policy
4 will not allow this to happen.

5 During debate on this issue, several objections
6 arise which must be answered by proponents of this legislation:

7 (1) Does Not this Legislation Give Physicians
8 Immunity They Should Not Have?

9 In response, the Pennsylvania Catholic Conference
10 has always been hesitant to support unwarranted immunity for
11 physicians because we hold that they should be accountable to
12 their patients and be punished for harm done to them.

13 But we will never concede that the birth of any
14 handicapped child whose handicap was not caused by the doctor,
15 should give rise to a cause of action or be a justification
16 for damages.

17 (2) What About the Extra Costs of Raising a
18 Handicapped Child?

19 Neither the emotional, physical or financial
20 hardships of any family with a handicapped child or children
21 should be taken lightly by others and society should help
22 these families without the resources to bear these burdens
23 alone. But doing so by exacting damages on the bare ground
24 that birth has occurred (instead of death in the womb) is not
25 the way.

1 (3) What About a Doctor Who Causes Harm to a Child
2 Which is Discovered at Birth?

3 This law would not protect him and he could be
4 sued for malpractice. In addition the following language in
5 new Section 8305 precludes him from avoiding such suit:

6 "Where a person has, by reason of the wrongful
7 act or negligence of another, sustained injury while in utero,
8 it shall not be a defense to any action brought to recover
9 damages for the injury, or a factor in mitigation of damages,
10 that the person could or should have been aborted."

11 (4) What About a Doctor Who Fails to Tell a
12 Pregnant Woman About the Availability of Prenatal Diagnosis
13 (Amniocentesis) if She Is in a High Risk Category?

14 Such a doctor could not be sued for wrongful birth.
15 As mentioned elsewhere in this paper, the purpose of this
16 legislation is to prevent the compulsory abortion of handicapped
17 children as a result of the growing threat of "wrongful birth"
18 lawsuits.

19 On both the medical level and the moral or ethical
20 level, obstetricians who are committed to the lives of both
21 the pregnant woman and her unborn child should not be forced
22 to prescribe a diagnostic procedure against their best judgment
23 or their consciences, especially when that procedure almost
24 always leads to the abortion of a handicapped child.

25 In this apparent conflict between a doctor's right

1 to practice ethical prolife obstetrics and a woman's right to
2 know about the availability of amniocentesis, prolife public
3 policymakers will resolve the dilemma against establishing
4 compulsory eugenic abortion by eliminating "wrongful birth"
5 lawsuits.

6 (5) What About a Doctor Whose Negligence Causes
7 the Death of a Woman during Childbirth?

8 As House Bill 1362, page two, lines one to six
9 provide, this legislation does not protect doctors whose
10 negligence causes the death or the physical injury of a
11 pregnant woman. If the child is born alive and continues to
12 live, the cause of action would be the death of or injury to
13 the woman, not the birth of the child.

14 It is not the primary objective of this legislation,
15 then, to provide immunity to any doctor who does harm to a
16 pregnant woman or her child, but rather to stop a court
17 engendered policy which views the birth of a child, handicapped
18 or otherwise, as a damaging event for which someone should be
19 punished; to prevent the quality of life ethic from becoming
20 so pervasive that a handicapped child is routinely considered
21 better off dead and of less value than a normal child; and to
22 prevent the practice of medicine, especially obstetrics and
23 gynecology, from becoming coerced into accepting augenic
24 abortion as a condition for avoiding "wrongful birth" lawsuits.

25 Your support for House Bill 1362 will be

1 appreciated by all your constituents who cherish the sanctity
2 of human life. Thank you, Mr. Chairman.

3 CHAIRMAN DEWEESE: Thanks, Frank. Questions and
4 comments from the membership. Mr. Heckler.

5 REPRESENTATIVE HECKLER: Thank you, Mr. Chairman.

6 BY REPRESENTATIVE HECKLER: (To Mr. Vieglietta)

7 Q We heard some testimony this morning from a doctor
8 who presently indicated that he would decline to suggest the
9 possibility that amniocentesis or some other diagnostic
10 procedure be used to a woman who would be considered to be in
11 a high risk category for having a handicapped child. I'm
12 wondering if this legislation were to be passed what the
13 position of your organization would be concerning language
14 which would require that a doctor, who takes such a position,
15 who chooses to substitute his judgment for that of the patient,
16 to provide some written notice to the patient that he in fact
17 takes that position? That he is not going to tell that patient
18 about options she may have. What would your position be on
19 such a proposal?

20 A Well, Representative, I cannot speak for the
21 conference right now. We would have to see the language and
22 assess it. My inclination is though, with wrongful birth
23 lawsuits, it is not just a question of a woman having the right
24 to know. There are social implications to this. Our support
25 f o r t h i s legislation connected to the fact that wrongful

1 birth lawsuits seem to be making statements about those who
2 are, quote, unquote, defective in society. That troubles us,
3 okay. So, I just wanted to clarify that. So, as a question
4 of sound public policy, especially in this state where we make
5 so much handicapped accessibility laws, et cetera and so forth.
6 We do so much for those people who are handicapped, it would
7 seem counterproductive to make this type of a statement, a
8 wrongful birth suit.

9 Getting back to your question, I think we could
10 entertain the notion if we could see the wording that you are
11 requesting.

12 REPRESENTATIVE HECKLER: Well, let me say, and you
13 may want to respond to this, that I am shocked that a
14 physician would believe that whatever his beliefs or her
15 beliefs and however deeply and sincerely held, that they would
16 have the right to substitute their judgment for the judgment
17 which should properly be exercised by the patient. I am
18 shocked to discover that at least on the part of one doctor
19 and perhaps others that it is happening now. To me, the
20 minimum base line would be to let the patient know that she
21 was in fact being treated by a doctor who was not going to
22 give her the full picture even though his medical expertise
23 might suggest that these factors would arise. So that, as I
24 say, this has all come to me this morning. I was very
25 astounded to hear some of the testimony we heard this morning.

1 It seems to me at a minimum, it is the woman, the mother, who
2 has the right to know what position her doctor is taking as
3 opposed to a doctor to make this unilateral choice not only
4 for whatever protection he feels is afforded the unborn child
5 but for the mother. Thank you.

6 CHAIRMAN DEWEESE: Mr. McHale and then Ms. Josephs.

7 REPRESENTATIVE MCHALE: Thank you, Mr. Chairman.

8 BY REPRESENTATIVE MCHALE: (To Mr. Viglietta)

9 Q Mr. Viglietta, although I have some very strong
10 reservations about House Bill 1361, I have voted for the
11 equivalent House Bill 1362 on previous occasions and I think I
12 will do so again. Now, having said that, in the interest of
13 truth in advertising, it is my understanding that the issue
14 of wrongful life and wrongful birth has been litigated as a
15 matter of common law in this jurisdiction and other jurisdictions
16 in advance of a statutory approach to the question. These cases
17 have been in the courts for some time. In the absence of a
18 statute speaking on the issue. Although it has been a long time
19 since I looked at those cases, I know at least some courts,
20 and I believe some here in the Commonwealth of Pennsylvania
21 have held, as a matter of common law, that a wrongful life or
22 wrongful birth suit violates public policy. Now, that may not
23 be an accurate statement of the law, but that is what I
24 recall from the dim recesses of my mind, very large, dim
25 recesses.

1 Would this statute change case law or would this
2 proposed piece of legislation simply reaffirm the principle
3 already established through litigation?

4 A May I defer to our legal counsel?

5 BY REPRESENTATIVE MCHALE (To Mr. Murren):

6 Q How much new law are we making here if this
7 becomes law?

8 A Wrongful life suits have not been recognized in
9 Pennsylvania. That is the suit by the child claiming that he
10 or she should not have been born.

11 Wrongful birth suits have been authorized, I
12 believe, a 1981 case, Speck vs. Finegold. So, this statute
13 would be changing the common law of the Commonwealth on
14 wrongful birth.

15 Q Could you give us a specific example of a suit
16 that would be allowed today that would be banned by the
17 passage of this legislation?

18 A Well, there have been other cases as well in
19 Pennsylvania. And I believe the state of the common law now
20 would be summarized by saying that if the child is born with
21 a handicap, which otherwise could have been detected --

22 Q Through diagnosis?

23 A Through diagnosis, and the child's birth prevented
24 by abortion, then the physician who either negligently
25 performs the abortion or fails to perform professionally

1 acceptable diagnosis would be liable for all of the damages
2 incident to raising that child.

3 REPRESENTATIVE MCHALE: Thank you. Thank you, Mr.
4 Chairman.

5 CHAIRMAN DEWEESE: Ms. Josephs.

6 REPRESENTATIVE JOSEPHS: Thank you, Mr. Chairman.

7 BY REPRESENTATIVE JOSEPHS (To Mr. Viglietta):

8 Q Mr. Viglietta, did I say it right?

9 A You said it the right way.

10 Q Thank you. I was late, I'm sorry. I did not hear
11 what position you hold with the conference. If you would be
12 kind enough to tell me.

13 A I am Director of the Justice and Rights Department
14 for the conference.

15 Q Then I think I can appropriately ask you this
16 question. I would guess out of the many positions that the
17 conference takes, I support vigorously and strenuously probably
18 98 percent; nutrition issues, social programs, employment and
19 so on. I get lobbied on them from the conference sporadically.
20 It is important for me to know in responding to you as a
21 lobbyist how you weigh these different issues. If you can
22 tell me by any measure your time spent by your staff, flow of
23 money, volume of paper, contact with legislators, how the
24 abortion issue lines up against the other 98 percent, I'd
25 appreciate some kind of estimate.

1 A In all honesty, Representative, we feel that the
2 abortion issue, I won't say is the most important issue
3 because we don't rank issues that way. I do think it has a
4 certain preeminence, a certain concern within our conference
5 because the basic, in keeping with Catholic social teachings,
6 which states that all human life must be respected from the
7 moment of conception on, maybe that explains how we get into
8 the social justice arena where we share our feelings. It
9 would be inconsistent for us to be, let's say, in favor of the
10 minimum wage law, to impose capital punishment and to address
11 the needs of our most needy citizens of our Commonwealth.
12 if we don't attend to the needs of the most defenseless ones.
13 Quite frankly, we would prefer doing away with abortions
14 completely which would enable you to vote 100 percent on our
15 issue and devoting our full time to working cooperatively in
16 addressing the many other social needs in our society.

17 As it stands now though, we see ourselves as
18 advocates for those without a voice, that being the unborn
19 child. So, in terms of priority am I going to say it is
20 number one; no. A few weeks ago we were in Pittsburgh
21 testifying on the question of surrogate mothering. At that
22 time that issue was number one. We didn't say to ourselves
23 let's sit around until the Abortion Control Act comes up.

24 The other day we were at a coalition meeting
25 dealing against the imposition of capital punishment in

1 Pennsylvania. I didn't go there because I didn't have any
2 abortion stuff to do. So, actually, we go by a wing and a
3 prayer, to be honest. We are a Catholic organization. We do
4 believe in the power of prayer. In any issue that confronts
5 us, is an important issue.

6 But I would say this, there is a certain
7 preeminence to this one insomuch that the basic right to life
8 is the beginning of all our social justice actions.

9 Q You said preeminence and I kind of asked you for
10 some measure. Is there any measure you can give me in terms
11 of time in the course of a year in contact with legislators,
12 bringing in other staff people, how much you use your Xerox,
13 you know, anything?

14 A We use our Xerox a lot. As the mail boxes in the
15 House and Senate will attest to. It really does depend upon
16 the issue. I can't say to you, if you are wanting me to say
17 that we have had cobwebs on our Xerox until the Abortion
18 Control Act came up, that is not true. Last session when
19 there was no abortion legislation, a major concern of ours was
20 the pornography issue. We devoted an awful lot of time to
21 that in communication with members of this Committee. So, as
22 the issues arise, we deal with them as effectively as we can.
23 When I heard that I was to be testifying in lieu of Mr.
24 Fetterhoff today, he didn't say to me, Frank, drop everything
25 else and just write the testimony on the Abortion Control Act.

1 He said, he gave me six other assignments to do.

2 So, to be honest, just like anyone else, just like
3 you, yourselves, have to deal with the wide variety of issues,
4 it is hard. It is very difficult for us to say which is more
5 important. But I will stress again that because our basic
6 social teaching is based on philosophy that all human life is
7 sacred from the moment of conception, that this issue receives
8 a certain precedence in our concern and in our efforts and on
9 our Xerox machine.

10 Q Thank you. I don't know if you were here earlier
11 this morning when a person who worked for the women's health
12 facility talked about the violence and harassment. But I made
13 the pledge that I would ask every person who testified before
14 us to here make a public statement to his or her constituents
15 to not engage in any kind of a violent, intimidating or
16 harassing behavior to a person who is seeking this procedure,
17 those who provide it or those like myself. Because I have been
18 the subject of harassment who seek to advocate for it. In
19 particular, for your organization, we believe that a training
20 is going on shortly in one of your religious institutions
21 outside of Philadelphia by a group/ ^{which} is well known to all of us
22 who are in this movement as one which trespasses on private
23 property, touches and more than touches people seeking this
24 medical procedure, uses highly inflammatory language and
25 really does not make any apology for the violence that it does.

1 I would like you now, if you would be so kind, to
2 make a statement since we are in public, which would be
3 calculated to discourage those people who listen to you from
4 that type of behavior.

5 A The only statement I could make is to echo the
6 statement made already by the American bishops. That they
7 condemn violence in any form.

8 With respect to the issue in Philadelphia, all I
9 know about is what I read in the newspapers. Sounds familiar.
10 But as I understand, these people have the freedom to use that
11 church facility so long as it is a prayful and peaceful
12 protest. The archdiocesan spokesperson, who is speaking for
13 the cardinal, has said that, has been assured by these people,
14 this will be the nature of the protest. Should they go beyond
15 that, should they violate that and become violent, then their
16 welcome in that particular church will have ceased.

17 Q I have one more question. I don't know if you are
18 aware, and I was just informed so, I don't know any of the
19 details, but the Association for Retarded Persons I believe is
20 the name, citizens, has just come out against 1362. One of
21 the reasons I understand is because these wrongful births and
22 wrongful life suits often result in the awarding of money
23 damages to the child and his or her family which greatly
24 enhance the quality of life of that child in his or her family.

25 I guess I would like you to comment on that.

1 A I wasn't aware of our position, first of all. And
 2 I think our statement was focused more towards the process of
 3 detecting in the womb a defect, if you will, in the child which
 4 would lead to an abortion. We are concerned primarily with an
 5 emerging, what can be called quality of life ethic in our
 6 society as opposed to a sanctity of life ethic.

7 If I may, Mr. Chairman, I would just like to
 8 explain briefly the difference between the two as we see them.

9 CHAIRMAN DEWEESE: No problem.

10 MR. VIGLIETTA: In the sanctity of life ethic,
 11 value judgments are made, are framed and they proceed from the
 12 assumptions that every human life is unique, inherently
 13 valuable and worthy of protection simply because it is a human
 14 life. The quality of life ethic that we are concerned about
 15 in the wrongful birth lawsuits proceeds from the assumption
 16 that the value of human life varies with factors. Such as
 17 intelligence, the ability to interact socially, the ability to
 18 be self-supporting, any future need of medical care, suffering
 19 or pain, any burden that may be placed upon society. So, with
 20 that in mind, that is how we arrived at our position of support
 21 of 1362. But I simply wasn't aware of our position.

22 REPRESENTATIVE JOSEPHS: I think my last comment
 23 is for people who choose to have these diagnostic procedures
 24 or who don't get them because, as my colleague, Representative
 25 Heckler, said, I think eloquently, a medical person has

1 substituted his or her judgment for the patient, I would guess
2 a very significant number do this, because they want to be able
3 to plan. And part of these cases have got to do with
4 sustaining and supporting this child who perhaps would not
5 have been aborted but the people would have had a chance to
6 plan. I think that depriving people of those chances and
7 those options is really unconscionable.

8 CHAIRMAN DEWEESE: Mr. Blaum.

9 REPRESENTATIVE BLAUM: Thank you, Mr. Chairman.

10 BY REPRESENTATIVE BLAUM: (To Mr. Viglietta)

11 Q Frank, because of the professionalism of this
12 Chairman, we are having these hearings today and his
13 commitment to this legislature. It is the first time we have
14 had hearings in a long time and probably the last time we will
15 have them for many, many years to come.

16 I had hoped that your testimony would include some
17 discussion, philosophical and theological, of the question of
18 life and why it is you believe that Catholic Conference
19 believes that human life begins at the moment of conception.
20 If you are not prepared to discuss that today, I would ask
21 that you submit it for part of the record of these hearings,
22 which again may not occur for some time.

23 Unlike the people who testified before, the
24 question of abortion for me is not a complicated one. It is
25 a very simple one, that is, are the unborn human persons

1 equal in standing to myself? My ability to think and reason
2 leads me to believe that they must be. People who are
3 pro-choice on this issue I am sure are led to believe that
4 that is not the case. And I think your testimony and that of
5 the conference is incomplete without some discussion of why it
6 is you believe life begins at the moment of conception.

7 A To be honest, I am not prepared theologically to
8 present that to you, but I will be glad to gather materials
9 along those veins and see that they are submitted to the
10 Committee.

11 CHAIRMAN DEWEESE: Miss Hagarty and then Mr.
12 McHale. Thank you.

13 REPRESENTATIVE HAGARTY: Thank you.

14 BY REPRESENTATIVE HAGARTY: (To Mr. Viglietta)

15 Q I suppose it was along the lines of what Kevin was
16 saying, I was present at the 1980 hearings held by the Health
17 and Welfare Committee of the House and at that time much of
18 the testimony focused on what I came to believe has caused me
19 concern ever since, and that is, that each of our major
20 western religions differ fundamentally as to when life begins.
21 And that based on that belief, we reach different results as
22 to what is moral, religious and within each person's
23 conscience. I am troubled by the fact that it is clear, and
24 it is clear throughout the Catholic church's teaching and
25 consistent with the Catholic church's view of birth control

1 for the Catholic church life begins at conception. Because
2 you believe that you have asked us to pass a statute which will
3 allow doctors not to advise women, who may believe otherwise,
4 as to when life begins. As to the availability of certain
5 tests, my concern is that, for example, a Jewish person such
6 as myself, if I go to a doctor and do not know that I am in a
7 high risk group, do not know that there are tests to detect
8 them, I would have a fundamentally different belief consistent
9 with my religion as to when life begins, may have no
10 knowledge and have no way of making a determination that is
11 totally consistent with my religious beliefs, which would
12 cause me to take a step that under my religion may be
13 considered more humane.

14 I wonder if you have thought of the Catholic
15 church's position with regard to the results it compels which
16 is consistent with your religious doctrines but not with mine?

17 A In response to that, Representative, I think the
18 most the Catholic church can do is try to make their positions
19 and their reasons reasonable and credible. And when we are
20 participating in the political process, to invite others to
21 see if they are reasonable to them, regardless of their
22 religious persuasion and to either follow them or not
23 follow them. That is the most that we can do as we
24 participate in this process.

25 REPRESENTATIVE HAGARTY: The reason I bring it up

1 is to keep in mind for those many, many people who have said
2 to me over the years, and they say it perhaps with less
3 finesse or sophistication that I might like, but this feeling
4 of this is one religious group's effort to dominate our
5 pluralistic and multi-religious society today. I think it is
6 important to raise, because I haven't heard it as Kevin Blaum
7 has raised the issue, that many of us differ fundamentally
8 and believe that we are just as moral and care just as much
9 about life but simply come from a different point because our
10 upbringing compels a different result. Thank you.

11 CHAIRMAN DEWEESE: The final question comes from
12 Mr. McHale.

13 REPRESENTATIVE MCHALE: Thank you, Mr. Chairman.

14 BY REPRESENTATIVE MCHALE: (To Mr. Viglietta)

15 Q Mr. Viglietta, if I could make an observation and
16 then invite your comment. I have always felt it is a tragic
17 circumstance that a woman might choose to terminate her
18 pregnancy for economic reasons. I have felt for some time
19 that we, as the Commonwealth, have not done enough to provide
20 financial support for the woman who would choose to go forward
21 with her pregnancy and thereafter raise a child. That we
22 simply have not been as compassionate as we should be to assist
23 that woman through what may be a very difficult economic
24 circumstance.

25 Last year there was an amendment, the gentleman,

1 Mr. Freind, is sitting over there in the corner, last year
2 there was an amendment introduced by Mr. Freind, that if I
3 recall it correctly, would have provided a million dollars in
4 such funding for organizations specifically intended to assist
5 young women who would choose to go forward with their
6 pregnancy rather than abort. I wanted very much to vote for
7 that amendment. I voted against it. And Steve and I debated
8 for some time on the floor of the House with regard to an
9 amendment that was attached to that proposed appropriation.
10 That amendment made such funding contingent upon an
11 organization's refusal to counsel on the issue of abortion.
12 It was contingent on a number of other matters as well and put
13 in performance of abortion. It would have forbidden money to
14 be transferred to organizations that even spoke about
15 abortion. Without analyzing my own moral views on that
16 particular issue, I felt clearly that that was unconstitutional.
17 That we could not restrict freedom of speech on that topic no
18 matter how controversial it might be.

19 So, I offered an alternative to that amendment
20 which was two million dollars that deleted that contingency.
21 We debated the constitutionality for some time and Steve
22 prevailed. I did not. The lower appropriation was passed
23 overwhelmingly by the House with that contingency attached to
24 it. The Supreme Court ruled last November that that
25 contingency is unconstitutional.

1 In House Bill 1361 there is a contingency with
2 regard to funding from IOLTA and for legal services
3 for legal services with regard to litigation on either side of
4 the abortion question, either to procure or prevent the
5 abortion. It is my understanding that next week when IOLTA is
6 brought before the House of Representatives in a similar
7 instance, I think at best questionable constitutional validity
8 will be attached -- will be proposed for that particular bill.
9 All of that lengthy introduction is to get to the point that I
10 think we are in full agreement. I personally view this
11 organization that more money has to be provided compassionately
12 to assist a woman who w i t h o u t the economic means to do
13 so, gives birth as a moral choice. We need to do more to help
14 them. I would think, though I am not certain that the Catholic
15 Conference would support the principle of IOLTA, where we want
16 to extend capable legal representation to all citizens
17 regardless of their wealth.

18 I find it very frustrating, when a legitimate
19 constitutional question, is allowed to cloud or even block
20 programs of social compassion which I think you are in
21 agreement. Having said all that, forgive the long speech.

22 Why do you, as an organization, choose to attach
23 such amendments thereby jeopardizing such programs? Rather
24 than in the alternative picking a clear-cut single case where
25 you can challenge the constitution on a point where you might

1 contest existing law? Why do we threaten programs of social
2 compassion, programs such as IOLTA, with amendments that I
3 think, at best, are questionable.

4 A I think that just gets back to our basic position
5 on abortion. Now, regarding IOLTA, Representative --

6 CHAIRMAN DEWEESE: For those who don't know what
7 IOLTA is, it is the Interest On Lawyers Trust Accounts Act.

8 MR. VIGLIETTA: We wanted to ensure that the money
9 generated by that program went to direct civil services for
10 the indigent. We do not consider abortion services to be a
11 valid form of service to be generated from that program.

12 This issue first came to the forefront in our
13 office last session. You know, you recall last session it had
14 passed the Senate and after that time a coalition in favor of
15 it had approached us and said will you help us get it through
16 the House. We looked at it and we said we may have some
17 concern some of this, the possibility of some of this money
18 being used for abortion related services. Even knowing that
19 the vast majority would not. That was one of the
20 controversies there.

21 The other controversy was the question, should this
22 program be voluntary or mandatory? Should attorneys be
23 required to participate? We talked among ourselves and in
24 principle, we said it would be very, very inappropriate for
25 the Catholic Conference to support any legislation whereby

1 some of the money generated, be it one penny or one nickel,
2 goes to an abortion related service.

3 BY REPRESENTATIVE MCHALE:

4 Q By abortion related are you including counseling?

5 A Yes.

6 Q The Supreme Court has said that that is protected.
7 In the Arizona case, at least as I read it, whether I agree
8 with it or not, is another question, clearly, the Supreme
9 Court has said you can't make a public funding contingency on
10 a prohibition of abortion counseling.

11 A Okay, if I can just finish my thought and then I
12 would ask legal counsel to comment on the constitutionality of
13 the question. Our conclusion was then and is now, as you have
14 seen by way of memo to the House, we support IOLTA in any form
15 so long as those amendments are in mandatory, voluntary, okay.
16 That in itself, that other issue is quite controversial as you
17 well know. But that is our position now. Regarding the
18 constitutionality of the issue, I will ask our counsel to
19 comment.

20 REPRESENTATIVE MCHALE: Before we do that, if I
21 may, I think it is your position that you would like to
22 prevent abortion counseling, and my contention would be that
23 that is unconstitutional. My suggestion to you is challenge
24 that constitutionality. As we see the membership on the
25 Supreme Court changes, and it may well be that previous

1 positions protecting abortion counseling might be reversed.
2 I don't deny you the right to seek another day in court to
3 reverse that position. But what bothers me is when that is
4 pretty clearly the position that is taken by the Supreme Court
5 and that amendment, or something similar to it, is attached to
6 a number almost every other social program, thereby
7 threatening the social program, not changing the law with
8 regard to freedom of speech on counseling. I am concerned
9 as a practical matter that women who need money to support
10 their children won't get it.

11 I am concerned that next week when IOLTA comes up
12 for a vote, because of the provisions similar to that which is in
13 1361, poor people would not get legal services. I guess what
14 I am suggesting to you is rather than using this as an
15 amendment on every single social program that could
16 conceivably be related to abortion, thereby jeopardizing or
17 perhaps killing in the case of IOLTA, those social programs,
18 pick one or two out, attach it, litigate it, try to convince
19 the Supreme Court your position is correct. I would hate to
20 see IOLTA be rejected by the House. I think it's going to be
21 a close vote, even without the abortion question. I would
22 hate to see IOLTA rejected because it has been used as a
23 vehicle for that kind of amendment. Thank you, Mr. Chairman.

24 CHAIRMAN DEWEESE: Does counsel have any further
25 amplification?

1 MR. MURREN: I will just limit it to the point of
2 the Arizona case. We think that the limitations on the use of
3 the Commonwealth funds that are drafted into the amendment on
4 IOLTA and on the legal services portions of 1361 are distinct
5 from the Arizona case. The Arizona case had two holdings.
6 One of which upheld the restriction and one of which in a
7 separately worded limitation struck it down. We feel that the
8 language in these bills tracks the language that was upheld
9 rather than that that was struck down.

10 BY REPRESENTATIVE MCHALE (To Mr. Murren):

11 Q The language clearly is different. The real
12 difference, as I see it, the language that I assume you support
13 1361 is not prolife. I think if you read it, you will admit
14 it is abortion neutral. If you could indicate for the record,
15 you are nodding your head, if you could verbalize that, I
16 would appreciate it.

17 A That is correct by design.

18 Q I understand. But you clearly recognize if it were
19 not abortion neutral, it would be unconstitutional for the
20 reasons that were articulated in the Arizona case. That
21 bothers me because while it is abortion neutral, it is
22 anti-legal services. Your amendment would prohibit the
23 expenditure of funds to assist an indigent woman who wanted to
24 prevent an abortion. I think that is accurate. Is that a
25 correct statement of what is in the law as you propose it?

1 A With some qualification, yes, that is true. As
2 long as it got to the stage of being an actual legal
3 proceeding. It doesn't prohibit any counseling activities of
4 legal services providers.

5 REPRESENTATIVE MCHALE: Well, I don't mean to
6 belabor this point. But it just seems to me to be an
7 inconsistency to say that a woman should have full medical
8 information as she makes her decision, I obviously support
9 that. I think a woman who is making that choice ought to be
10 fully informed, and say simultaneously that she should be
11 denied legal counsel on that very same point. Whether a woman
12 chooses to go to court to protect herself from a compulsory
13 abortion or chooses to go to court to litigate her right to
14 choose, and I have my own views on that issue. Whatever side
15 she comes down on, I think it is a tragic mistake to require
16 her to make those legal judgments without competent
17 professional advice. I also think it is unconstitutional.
18 But just as a matter of fairness, I think an abortion neutral
19 amendment such as the one that you proposed that strikes at
20 the ability of a woman to make an informed legal choice is
21 very unfair, whichever side of the issue she is on. Either
22 trying to prevent or procure an abortion. And as I said this
23 morning, and I probably will say it again to Mr. Freind in a
24 few minutes, I don't think there is one chance in 100 that
25 that particular portion of the bill is constitutional. Thank

1 you.

2 CHAIRMAN DEWEESE: You're welcome. Miss Josephs
3 for a final comment.

4 REPRESENTATIVE JOSEPHS: Since we sort of got into
5 talking about religion, I think one of my colleagues has made
6 an assumption that those people who generally believe that
7 abortion must remain legal and accessible, have certain religious
8 beliefs that lead them to that. I am not sure that is true.
9 It has to be clear that anybody who looks at me knows what my
10 heritage is. But I decline to tell anybody what my religious
11 beliefs are in this issue. I am making a policy decision.
12 This is not a class in comparative religion. It is body of
13 elected officials making a governmental decision and I want to
14 be clear about that. Thank you, Mr. Chairman.

15 CHAIRMAN DEWEESE: The Chair would like to welcome
16 Representative Mayernik from Allegheny County, to my right.
17 And I recognize for a final comment, Mr. Blaum.

18 REPRESENTATIVE BLAUM; Thank you, Mr. Chairman.
19 Just in response, while I asked for a philosophical and
20 theological explanation from the Catholic Conference, I did
21 not mean to suggest that I even arrived at my conclusions on
22 this issue by way of religion. I haven't. It is just the
23 ability to think and reason which has led me to conclude that
24 it must be a human even before birth. While that ability to
25 think and reason is in good part the product of a thorough and

1 logical Jesuit education, I did not mean to bring religion
2 into it at all. It happens to be the way I think regardless
3 of religion.

4 CHAIRMAN DEWEESE: Thank you, gentlemen. Thank
5 you very much.

6 MR. VIGLIETTA: Thank you, Mr. Chairman.

7 CHAIRMAN DEWEESE: I'm sorry, Mr. Reber.

8 REPRESENTATIVE REBER: Thank you, Mr. Chairman. I
9 will make this quick. I think I would be remiss without
10 putting this on the record in light of what we have just been
11 discussing about Representative McHale to some extent.

12 I have, as you probably heard earlier, raised some
13 concern about the legal funding issue that is tied into this
14 bill, a new element in this bill. The exact time escapes me.
15 It has been within the past two and a half years. I was in a
16 situation as a private attorney^{called} upon by a young gentleman
17 whose girlfriend at the time was pregnant. And he wanted to
18 stop her from what then appeared to be the choice of having an
19 abortion. If I, Representative Reber, would have been a legal
20 aid attorney, I would not have been able to go forward to, as
21 I see it, counsel, in regard to the procedures. But more
22 importantly, the case came that very close to necessitating
23 litigation to make some attempts to carry through the wishes
24 of that individual young man.

25 The third section of this bill that deals with

1 this, prohibits providing legal assistance with respect to any
2 proceeding or litigation which seeks to prevent the performance
3 of any abortion.

4 If I am a legal aid attorney and I am faced with
5 that same set of facts for a client, I could not respond within
6 the mandates of this particular statute. I would be
7 frustrated from performing to the best of my ability as an
8 attorney.

9 Let me say this also, in the course of that, I
10 remember speaking with Representative Steve Freind on the issue.
11 We had analyzed the situation, what we may do and I could think
12 of no one better that had formulated every possible
13 hypothetical as to what we may do to aid and assist this
14 thought. We went to that extent.

15 The good side of the story is that there was a
16 reconciliation, an ultimate marriage and the birth of the
17 child. But I think the significance of the onerous aspects of
18 this language that an attorney would be faced with, both from
19 an attorney/client privilege relationship and more
20 importantly from a constitutional relationship as would
21 infringe, as I see it written, on the dissemination and due
22 process in regard to seeing that an individual's rights are
23 carried to the fullent extent of the law. This provides
24 trouble. And I concur wholeheartedly with Representative
25 McHale's position on this. The only reason I think it is

1 important for this Committee, for the record to discuss this,
2 is, we are going to be faced with this kind of concept, this
3 kind of philosophy in the upcoming bill. We're facing it obviously
4 in this piece of legislation. And frankly, I think we face it
5 every time we have a legal aid funding issue on the budget
6 consideration. And I am not lecturing to you. I think it is
7 important that there is a very good example of how this would
8 impact upon legal services, impact upon a very large segment
9 of the populus of the Commonwealth of Pennsylvania that has
10 need for these services. Thank you, Mr. Chairman.

11 CHAIRMAN DEWEESE: You're welcome. Thank you,
12 gentlemen. The next witness is our colleague and friend,
13 Honorable Steven F. Freind, prime sponsor of these two bills.
14 Steve.

15 If the gentleman, Mr. Freind, wouldn't mind, at
16 the closing of our pre-lunch session, one member had one
17 question for you and I mistakenly did not call that to the
18 Committee's attention. If the gentleman, Mr. Freind, would
19 acquiesce, we just have one question for Miss Gans.

20 REPRESENTATIVE FREIND: No problem, Mr. Chairman.

21 CHAIRMAN DEWEESE: Thank you.

22 MS. GANS: Thank you, Mr. Freind.

23 CHAIRMAN DEWEESE: The Chair recognizes the
24 gentleman from Dauphin County, Mr. Piccola.

25 REPRESENTATIVE PICCOLA: Thank you, Mr. Chairman.

1 I will try to keep this as brief as possible.

2 BY REPRESENTATIVE PICCOLA:

3 Q Miss Gans, how long is AVA in existence?

4 A Actually, we have only been in Washington, D.C.
5 for two years this October. It is a project that has come
6 from the various post-abortion support groups, Open Arms,
7 Project Rachael, WEBA, several others around the country. A
8 decision was made about two and a half, three years ago that
9 there needed to be some kind of developed effort in Washington,
10 D.C. on behalf of those of us who had abortions, who, for all
11 those reasons, sought abortion and now feel that some effort
12 needs to be applied to change laws as far as informed consent
13 and parental notification. Those areas where we feel we were
14 injured in the process of seeking our abortion.

15 The other end of that too was that we felt very
16 strongly that there needed to be some kind of really carefully
17 put-together effort to bring together the professionals who
18 are doing this kind of research in post-abortion syndrome.
19 Those people were very disconnected and actively working on
20 their own and not realizing what they were seeing in their
21 private practices as being seen elsewhere. So, the objective
22 of AVA is to allow for all of that to happen and to educate
23 the general public about our own personal lives. So that we
24 can better assist those women who are seeking abortions now
25 and those who already had abortions but feel that there is

1 something hurting or disturbed in their lives because of that
2 experience. Is that adequate to the question?

3 Q More than adequate. I almost hesitate to follow it
4 up. Was there an organization, a predecessor organization or
5 some organization or even individuals who studied what you
6 characterize as PAS prior to Roe vs. Wade?

7 A There were individual studies that had been
8 conducted, very limited studies. By and large the information
9 we are beginning to gather now was only about three or four
10 years old as far as a cohesive body of information. The
11 Surgeon General's report that is being done now, which really
12 he began to work on it in September, is the first of its
13 kind. Most of what was looked at prior to Roe vs. Wade was
14 international studies. Studies that came out of England,
15 Denmark, Hungary, other places, other countries. There was
16 not a great deal that had been done here. It was difficult to
17 do that here because there had been no situation of legalized
18 abortion.

19 Now that abortion has been actively endorsed by
20 our country for some 15 years or more, if you were in New
21 York or California, there is a much stronger body of
22 individuals who use that as a recourse in a crisis. Now, we
23 have those people that we can look at and say, well, what has
24 happened. They have made the decision. How has it affected
25 their lives. Is it to the good or is it to the bad? And so,

1 there was no group. The reason I say we come out of the
2 post-abortion support groups is that those groups themselves
3 really didn't start forming. Women like myself sought other
4 women and we found each other and we started to put our own
5 lives together alone. But some of us, as I said, can go public.
6 Most of us can't. So, we made a decision to make it separate
7 from the support groups so as not to interfere with the very
8 private counseling situation that happens in those groups.
9 And those of us that are public remain strictly public and do
10 not do counseling.

11 Q The theme of your testimony seems to be summed up
12 on page four where you say, too many women abort because they
13 feel they have no choice. Abortion is shrouded in secrecy.
14 Those are your words?

15 A Yes.

16 Q My sense is, that is just exactly the opposite of
17 what is true. Abortion is probably the most widely and
18 thoroughly debated issue of modern times in this country at
19 the present time. You can't pick up the newspaper without
20 reading some article on the pros or cons of abortion. You
21 came to us today indicating that you were a victim. After
22 you testified, I am glad you had the opportunity to come back
23 because a memo was circulated among the members, I don't
24 know who put this on my desk, which indicates that you,
25 rather than not having knowledge, actually came from a prolife

1 family, were quite familiar with --

2 A Okay, let's talk about what was going on in my
3 life.

4 Q I think you ought to have the opportunity to read
5 this and respond to this.

6 A I would like to read the memo, but I think --

7 Q Because it flies in the face of --

8 A I will read the memo, but I think I can clarify
9 very directly for you that the circumstances of my life were
10 such that I had removed myself from my family for some six
11 years. I had not been actively working with my family, living
12 with my family, inquiring for their advice, asking for their
13 information. They were living their lives. I was living mine.
14 I had come home for a brief period of time between jobs and
15 between school situations. And I simply did not communicate
16 with my family. Whatever information may have been available,
17 I did not make myself privy to. I didn't know about it. I
18 still feel that regardless of the background I may have come
19 from, it still is my doctor's obligation to inform me of what
20 the procedure I am about to undergo will involve, how my body
21 will be treated during this procedure, what may or may not
22 happen to me afterwards because of this procedure. It is not
23 for my doctor to decide that because my mother or father has
24 certain beliefs, he therefore is no longer obliged to tell me
25 what he is going to do to me, what is happening to my body

1 prior to the operation even happening or what may happen to
2 me afterwards.

3 If that were the case, then every patient whose
4 parents happens to be a doctor who chooses to go to another
5 doctor other than their own parents for advice would somehow
6 be letting this new doctor off the hook because daddy happens
7 to be an orthopedic surgeon. This new doctor doesn't have to
8 tell me about the break in the bone in my foot. That is not
9 the case. My doctor was still obliged, my doctors were still
10 obliged to go through with me the things that I needed to
11 know. That I chose to tune my family out did not let them off
12 the hook from their obligation to proceed to tell me how I
13 could put baby up for adoption should I so choose, how I could
14 find help from the state if I needed it, that the baby's
15 father was going to be responsible for the care, child care
16 and support. I will not tolerate the kind of thoughts that
17 are brought forward as a personal attack with very little
18 knowledge of what was happening in my life at that time. My
19 sense of self-esteem was gone. This man was not the first
20 man in my life. Like so many college students I was looking
21 for love. I thought love was to be found in the arms of
22 people who didn't care about me any more than they cared
23 about themselves or the child that we created. And I cannot
24 see how the fact that my parents have one belief and I held
25 another and I lived another lifestyle, is reason not to protect

1 the women of Pennsylvania. That is not the question here. It
2 has nothing to do with this this morning.

3 I am not angry with you, Mr. Piccola, I am angry
4 with people who turn issues like this into a personal debate.
5 And as far as one last point, you make the comment that
6 abortion is widely debated. It is true that the issue is
7 often raised. It is not true, however, that when the issue is
8 raised in the newspaper articles or on television, as I guess
9 you can gather, in my position I do a great deal of both,
10 newspaper and television work. It is very, very rare to see the
11 issue discussed in all of its ramifications. The full issue
12 of fetal development is never discussed in most of the forums
13 I am open to. As a matter of fact, oftentimes I have been
14 told do not bring slides, do not bring information. It will
15 not be used.

16 As far as I am concerned, an issue that is often
17 talked about is not necessarily something that is always
18 understood fully. Nor is it an issue that generally Susan,
19 who may be 17 or Clara who is 20, in college thinking about
20 other things, necessarily has spent days and weeks thinking
21 about it. Prior to my abortion, I never stopped to think about
22 it. What really happens in abortion? Like most women, I
23 didn't want it ever to happen to me, okay. Because I didn't
24 want it to happen to me, I didn't know the full story and
25 nobody could have predicted the fact that from my

1 circumstances, post-abortion syndrome for me, do you know what
2 it meant for me? Four and a half years before I was able to
3 date again. Two years before I could deal with a baby or a
4 woman who was pregnant.

5 Q If I could interrupt, I am raising this, and you
6 don't even know what I am looking at.

7 A Maybe I don't. I'm sorry.

8 Q The only reason I raise it is because it was
9 circulated to members of the Committee. I think it should be
10 made a part of the record. I think rather than for you to
11 testify on it today, I think you should be given an
12 opportunity to give us a written response to it to be made
13 part of the record. That was the only reason I raised it.

14 A Can I make an objection to making it a part of the
15 record if I feel it is too directly a personal attack not
16 having anything to do with this law which regards Pennsylvania
17 women? I mean, that is up to the Chairman. I feel that
18 perhaps, since it is related to my personal life and not the
19 circumstances of this law and how it would affect Pennsylvania
20 women.

21 REPRESENTATIVE PICCOLA: That is up to the
22 Chairman.

23 MS. GANS: That's up to the Chairman, I guess.
24 You can make a decision on that at a future date.

25 REPRESENTATIVE PICCOLA: I am going to ask that

1 the memo be part of the record because it reflects directly
2 upon your experience. And you can read this. I don't want to
3 sit here and read this.

4 MS. GANS: I would like to read it.

5 REPRESENTATIVE PICCOLA: But I think you should
6 have the opportunity to provide us with a written response
7 to --

8 MS. GANS: I'm not trying to keep anything secret.

9 REPRESENTATIVE PICCOLA: It is a rather factual
10 type of a memo. It doesn't really get into any emotional
11 arguments, what have you. It is rather factual.

12 Mr. Chairman, I would like to have this memo made
13 part of the record and give Miss Gans a period of time to
14 respond.

15 CHAIRMAN DEWEESE: I would immediately acquiesce
16 to that request and if Miss Gans has some negative prospective,
17 she can enter that into the record to countervail it.

18 MS. GANS: I will. But I really don't see how
19 what was happening in my life has anything to do with what
20 happens to a bill that is going to benefit Pennsylvania
21 women. I accept it. I accept it that it is there and that is
22 all. It is just an important fact for us to consider, are
23 we talking about woemn in Pennsylvania?

24 REPRESENTATIVE PICCOLA: The allegation --

25 MS. GANS: I didn't try to keep anything secret.

1 REPRESENTATIVE PICCOLA: The allegation in the
2 memorandum was to the fact that you were in fact adequately
3 counseled at Planned Parenthood.

4 MS. GANS: I went to a Planned Parenthood clinic.
5 I don't feel I was adequately counseled.

6 REPRESENTATIVE PICCOLA: So, you were aware of
7 your family background and took a very cautious approach in
8 terms of your counseling. I don't know whether what they are
9 saying is accurate or not. I am just indicating that I would
10 like that to be made part of the record and give you the
11 opportunity to provide us with your written response to that.

12 MS. GANS: I will provide you with a written
13 response and right now I want to clearly say that what one
14 person said about what they said they said to me doesn't in
15 any way, shape or form, change the fact that I never heard the
16 words post-abortion syndrome, I never heard the words
17 incompetent cervix, which is a condition I may be dealing with
18 in my own circumstances as far as future pregnancies. I was
19 never told about --

20 REPRESENTATIVE PICCOLA: Please.

21 MS. GANS: But this is important. Clearly this is
22 my last comment. I truly believe that there is no way in the
23 world that you can tell me or anyone can tell me. I am the
24 one who is not married yet, who doesn't have children, who
25 doesn't know what my full physical condition is. I have just

1 been to a doctor a month ago. For the first time, by the way,
2 this is also part of post-abortion syndrome, for the first
3 time in six years I had the courage to go back to an OB/GYN
4 just a month ago to find out how I was physically. I
5 literally did not ever want to go near an OB/GYN again. I
6 found one I trusted and one month ago I went back for the first
7 time to be examined. He told me that from what he can see
8 physically I am okay but there are certain conditions,
9 including uterine scarring, that cannot be detected unless I
10 were either to conceive another child and try to carry that
11 child to term or undergo major surgery and be opened up and
12 found out what is inside. I don't choose to either bear a
13 child at this point in my life or to go through surgery. Not
14 one person on this Committee ever will be a woman like myself
15 in this state or any other coping with that fear. I don't
16 know how to tell you. I don't live with that day and night,
17 but it isn't easy and no one told me that that was going to
18 be the state of my life today, six years after the abortion.
19 No matter what any memo says, no one told me.

20 CHAIRMAN DEWEESE: Thank you very much, Miss Ganz.
21 Thank you very much, Mr. Piccola.

22 MS. GANS: Could I see a copy of the memo today?

23 CHAIRMAN DEWEESE: Certainly. I also have not
24 read the memo.

25 MS. GANS: I appreciate your understanding.

1 CHAIRMAN DEWEESE: But I accede to a member of my
2 Committee when he asks it to be put on the record.

3 MS. GANS: I truly appreciate what you are trying
4 to do, Mr. Chairman. Thank you.

5 Memo -- Frances Sheehan to Morgan Plant, re:
6 Olivia Ganz dtd. 11/10/87 was as follows:

7 I spoke with both Ann Baker of the 80% Majority in
8 New Jersey and Maxine Brown who currently works for Planned
9 Parenthood Federation of America in New York City but is also
10 the former director of Monmouth County Planned Parenthood
11 (MCPP). They each corroborated the following story:

12 Olivia Ganz is in her late 20's, early 30's.
13 While currently affiliated with American Victims of Abortion,
14 she was formerly with Women Exploited by Abortion (WEBA). The
15 former group is affiliated with Joe Schiedler and Judy Brown
16 and the latter is John Willke's. We have to assume that her
17 withdrawal from WEBA means that she doesn't believe that
18 national Right to Life is radical enough for her.

19 Olivia comes from a devout anti-choice, very large
20 Catholic family. Her family has been involved in anti-choice
21 activities for years, at least since 1975. Her family
22 frequently picketed MCPP and her parents were two of the most
23 vocal "anti's" in northern New Jersey.

24 Around 1980 Olivia became pregnant while in
25 college (it is unclear if she ever completed college in the

1 end), became frightened, and went to MCPP for counseling and an
2 abortion referral. Because the staff of MCPP was aware of her
3 family's position on the issue, they were cautious with her and
4 were sure to provide her with thorough options counseling. It
5 was hard for them to believe that an abortion was her choice,
6 but she did sign the usual form stating that she had received
7 options counseling and was well aware of the decision she was
8 making. Because MCPP did not have the licensing to provide
9 abortions at that time, they referred Olivia to an excellent
10 private physician who did perform abortions. By the time she
11 went for the procedure, MCPP staff calculate she was
12 approximately ten to 12 weeks along in her pregnancy.

13 At least one year later, MCPP staff began to
14 notice Olivia on the picket line outside their clinic. By
15 that time, MCPP was about to be able to provide abortions at
16 that site. Of course, the Ganz family had been very involved
17 in fighting MCPP's ability to get freeholder monies for family
18 planning and their request for a Certificate of Need to expand.

19 Eventually Olivia was named as a co-defendant in
20 the suit MCPP filed against protesters outside their clinic.
21 She became a founder of at least one WEBA chapter in northern
22 New Jersey. It is her public contention that she was coerced
23 into signing at the time, that she was unaware of the
24 alternatives (despite her family background), that two doctors
25 held her down during the procedure, and that her pregnancy was

1 at least 18 weeks of gestation.

2 Olivia has gone as far as to share this story on
3 the stand under oath -- she was not charged with perjury
4 because MCPP won their case against the defendants and didn't
5 feel the need to go further with the case. But, her
6 willingness to lie under oath is a sign of how far she has
7 gone in adopting this story as truth.

8 It is Ann and Maxine's theory that Olivia feels
9 such tremendous guilt about her abortion that she is
10 essentially making restitution to her parents by becoming not
11 only a loyal soldier in their movement, but an articulate,
12 outspoken leader.

13 Both Ann and Maxine stressed that Olivia is
14 probably one of the anti-choice movement's best spokespersons.
15 She is very theatrical but articulate and has a lovely voice
16 which is very compelling.

17 She may also share the fact that she and her
18 parents recently took in a pregnant woman whom they had
19 convinced to carry to term.

20 Probably the most salient point to raise would be
21 how she can claim she was unaware of other options given her
22 family background.

23 CHAIRMAN DEWEESE: Steve, thank you very much for
24 your patience. The schedule had to be somewhat reshuffled,
25 but, welcome.

1 REPRESENTATIVE FREIND: Thank you, Mr. Chairman.
2 I would like to begin by thanking you and the members of the
3 Committee for this opportunity. In this regard, I particularly
4 appreciate your courtesy with the request which I made to you
5 previously in a letter. As you know, originally Mike
6 McMonigal from the Southeast Coalition, prolife coalition,
7 was to testify. As I indicated to you, his place will be
8 taken by Molly Kelly, nationally acclaimed spokesman for the
9 prolife movement. Mrs. Kelly is here today. In addition,
10 Dr. Neff, whom I mentioned, the psychiatrist, whom I
11 mentioned in the letter, is also here and I would be grateful
12 if they had the opportunity to testify.

13 CHAIRMAN DEWEESE: I'm not going to promise
14 anything now. We are going to go through the schedule and see
15 where we end up, okay.

16 REPRESENTATIVE FREIND: Okay, the only thing I
17 was surprised, when I saw you a couple days ago, you said you
18 received the letter and acceded to it and that was specific
19 in there requesting a switch from McMonigal for Molly Kelly
20 and Dr. Neff.

21 CHAIRMAN DEWEESE: What I meant was that we have
22 a lot of people that would agree with you and we have a lot of
23 people that would disagree with you. It seemed like it was
24 pretty balanced. That is all I was referring to.

25 REPRESENTATIVE FREIND: Okay. At any rate, I

1 thought that I was prepared coming in here until I heard my
2 colleague, Miss Josephs' question, and I admit, Babette, I
3 have not brought my Xerox logs, but I can certainly rectify
4 that down the road.

5 I am not going to dwell a long time on the specifics
6 of this legislation because I think you are all aware, in the
7 last six months twice we sent out detailed analyses of what
8 each bill does with the rationale for its provision. In
9 addition, I recently sent a memo with the one change in 1361,
10 in the method, the guidelines for reporting of rape and incest
11 for Medicaid funding of abortions. Additional copies of the
12 analysis and the memo is attached to this testimony. So, I
13 am not going to dwell on it.

14 I think everyone will admit that although there
15 are certain procedural moves we make to bring up an abortion
16 bill, we never attempt to keep anyone in the dark. Everyone
17 knows fully in advance what we are going to do. In fact, the
18 first person I always advise of what we are going to do is my
19 dear friend, Morgan Plant. I believe that everybody should be
20 advised well in advance. I kind of subscribe to the old Vince
21 Lombardi approach, not a lot of fancy razzle-dazzle.
22 Everybody knew the sweep was coming. The name of the game is
23 whether or not you can stop it.

24 I sometimes think, however, that when we talk
25 about specific sections of abortion legislation, we get so

1 involved that we forget the overall issue. And what I would
2 just like to do very briefly is discuss that overall issue.

3 By any definition abortion is the killing of an
4 unborn child. I would be happy to respond to any questions
5 with respect to that definition. Each year in America, we kill
6 1.5 million innocent, unborn children. Dwell on the number
7 for just a second. That breaks down to one every 20 seconds,
8 three per minute. During the ten minutes that I have been
9 allotted to make comments, 30 unborn children will have died.

10 I have said time and again, and it bears
11 repeating, that we live in a society that weeps for the
12 killing of the baby seals, that pickets over the killing of
13 porpoises by Japanese fishermen, that has enough political
14 muscle to halt a multi-million dollar dam project down south
15 to save the snail darter, and yet permits the killing of one
16 and a half million innocent unborn children every year. To
17 say the very least, a masterpiece of inconsistency. And you
18 have to ask yourself the rhetorical question as to how long
19 any nation can continue to prosper, indeed survive, when it
20 continues to systematically eliminate its most precious asset,
21 its children, in fact, its future.

22 We have heard, in the past, smoke screens about
23 abortion being a religious issue. Of course, it is not a
24 religious issue. It is a human issue by which we will decide
25 the fate of a considerable segment of that human race.

1 Let me digress here for a second to discuss that
2 in detail. The question has been asked, when does life begin?
3 I'm certainly not a theological expert. I will say, however,
4 in the past six years I have probably gone on every radio
5 station, every television station debating the experts from the
6 other side. During none of those debates has anyone ever
7 denied that life begins at conception. When a sperm is united
8 with an egg causing a cell that grows and continues to grow.
9 That is life. Now, you can argue whether or not it is human
10 life. I am certainly not an expert there. But since dogs have
11 dogs and horses have horses, it is a fairly good bet to say
12 that humans will have humans. It is also important to
13 remember that at the instant of conception all 46 chromosomes
14 for a human being are present. In that tiny cell, that
15 miracle of creation, are such characteristics already
16 decided as the color of the baby's hair, what color eyes he
17 or she will have, fingerprints, facial characteristics as well
18 as genetic characteristics, at the instant of conception.
19 Given that, if anyone can say that life doesn't begin at
20 conception, I would be very, very surprised.

21 There is no doubt whatsoever that abortion is a
22 wrenching social issue. Probably the most difficult social
23 issue which we face. But since when do we solve our social
24 problems with violence and no one can dispute that abortion
25 is an inherently violent act.

1 It is safe to say that the vast members of my
2 colleagues here don't look forward to an abortion vote. Well,
3 I have a news flash for you. Neither do I. I do not get any
4 particular joy of bringing the issue up and putting the feet
5 of my friends and colleagues to the fire. And I'll tell you
6 something else, the battle is very wrenching, it is very tiring,
7 emotionally it has me drained. But I think you have to
8 remember, Mr. Chairman, that this isn't a fight we sought.
9 This is the fight that was forced upon us not by any elected
10 officials and not by the people through the elected officials.
11 It was forced upon us by seven nonelected public officials
12 back in 1973, a seven to two vote in the Roe vs. Wade decision.
13 You have to remember that prior to that decision in almost
14 every state in the union, the people, through their elected
15 legislators, had laws which did not limit or restrict or
16 regulate abortions. They outlawed abortions. These laws
17 were never repealed by the people through their elected
18 legislators. Instead they were stricken by the United States
19 Supreme Court. The same institution, I might add, that has
20 never had a monopoly on being right. The same institution
21 that in 1857 ruled in the Dred-Scott decision that not only
22 was slavery legal, but they didn't know whether or not a slave
23 was a human being, and in fact if you killed a slave, it
24 wasn't murder, it was a property offense against the slave
25 owner.

1 This battle is going to continue one way or the
2 other until it is resolved. The bills we are considering here
3 today do not, in any stretch of the imagination, represent
4 ultimate victory for the prolife movement. And I have to be
5 very honest with you, ultimate victory can and will only occur
6 when there is a reversal of the Roe vs. Wade decision. Just
7 so everyone knows, and I have said it before, if Roe vs. Wade
8 is reversed on a Tuesday, on a Wednesday, a bill will be
9 introduced in the Pennsylvania House of Representatives that
10 doesn't restrict or limit abortions. It outlaws abortions.
11 It ends the nightmare once and forever, once and for all.

12 I firmly believe that bill will pass the House.
13 It will pass the Senate and it will be signed into law by the
14 prolife Governor of Pennsylvania, and that indeed will be the
15 happiest day of my life.

16 Until then, however, we have to be as creative and
17 aggressive as possible to come up with legislation in an
18 attempt to protect both victims of abortion, and in every
19 abortion there are two victims, the mother and the baby. If
20 you look at 1361, one of the major thrusts of education is
21 informed consent. I have always believed that the single,
22 most important ingredient and the victory for the prolife
23 cause is education. Because the average person doesn't know
24 the facts, and if you don't believe me, take your own poll.
25 PhDs, third grade dropouts don't know the two major issues.

1 Number one, in detail, what is an unborn child and what are
2 the characteristics of that baby? And number two, in detail,
3 what is abortion and what does it do to that unborn child?
4 I firmly believe that if we can get the word out and educate
5 on those issues, absolutely we will prevail.

6 If you look at 1361, and I think it is important
7 to remember that the vast majority of the Abortion Control
8 Act of 1982 has been ruled constitutional and is already in
9 effect, that is, seven percent of the bill. We have only
10 taken the sections that were stricken by the court last June
11 and fine tuned them to put them back in. We believe in an
12 informed consent section. The prior provision said that a
13 woman had to be advised by the doctor as to the medical
14 procedure being used and the danger, both physical and
15 psychological, of both abortion and childbirth. How anyone
16 can oppose the proposition that a woman should be made
17 available to her all of the information before she makes a
18 decision which in one way or the other will remain with her
19 for the rest of her life, is beyond me. And yet they did.
20 And if you look at that five - four Supreme Court decision,
21 the ringing dissents from the four members of the minority,
22 including the Chief Justice of the United States.

23 Okay, we have come back with another informed
24 consent section. I defy anyone to oppose this one. Word for
25 word this is the exact same ^{informed} / consent section that is presently

1 in law for every other medical procedure. To oppose this would
2 be to say that for some reason abortion has to be treated as
3 some type of unique sacred cow.

4 The question may be asked, why do it if it is
5 already the law. The argument can be made by a court because we had
6 informed consent just in the Abortion Control Act and it was unique.
7 Since it was stricken, the existing law does not apply to
8 informed consent. Better safe than sorry. If it is already
9 in the body of the law, then I use the old NBA rule, no harm,
10 no foul, no harm is being done.

11 Let's take a look at the second independent
12 physician requirement. How do you oppose this regardless of
13 how you feel about abortion? What it said was, it was
14 stricken on a technicality, that whenever an unborn child
15 might be viable and might be able to survive the abortion, you
16 have a second independent doctor in the operating room. He
17 would not take part in or interfere with the abortion, but
18 after the abortion was performed and the baby was outside the
19 mother -- and by anyone's definition that was a born human
20 being, w o u l d try to save the baby's life. Remember that
21 the court has said a woman has a right to an abortion, meaning
22 a termination of her pregnancy. It has never said that a
23 woman has a right to a dead baby. The thing that personally
24 bothers me the most, and I have to say here, I don't just
25 believe in the prolife principle, I never forget what we are

1 dealing with, individual unborn babies. And the thing that
2 bothers me the most, that if this section had not been stricken
3 on a technicality, the tragedy occurred about four years ago
4 at West Park Hospital in Philadelphia, wouldn't have occurred.
5 You remember it. A 13 year old girl who was eight months
6 pregnant had an abortion performed on her and pursuant to
7 that abortion gave birth to a four-pound nine-ounce baby girl.
8 According to the charges filed against the doctor, charges
9 which are still pending, violations I might add of the 1982
10 Abortion Control Act, the doctor took the baby, placed the
11 baby in a utility closet where ninety minutes later that baby
12 girl died, alone, unaided and gasping for breath. Medical
13 testimony has indicated that if only the airways had been
14 cleared, a normal medical procedure, there was a 97 percent
15 chance for survival. That is not just killing. Flat out,
16 that is murder. How anybody can oppose that section, a second
17 independent physician, is beyond me.

18 We have a section in there that says whenever an
19 unborn child might be viable, the doctor has to choose the
20 abortion procedure most likely to give rise to a live birth.
21 It was stricken on a technicality because what we said was,
22 unless the abortion procedure would significantly increase the
23 risk to maternal life or health. The court struck one word,
24 significantly. So, we are taking the word out. What we are
25 saying now is, "Whenever the unborn child might be viable, the

1 doctor has to choose the abortion procedure most likely to
2 give rise to a live birth. Unless it would in any way
3 increase risk to maternal life or maternal health."

4 Again, I have a difficult time finding out how
5 anybody can oppose that.

6 REPRESENTATIVE BLAUM: What is that form that
7 gives the best chance for a live birth?

8 REPRESENTATIVE FREIND: I think it would vary,
9 of course, with the the particular pregnancy and the
10 stage of pregnancy. Serotomy, I believe, although sometimes
11 with respect to saline, injections of abortion. A baby whose
12 skin is burned off with injections, refuses to cooperate and
13 is still born.

14 The West Park Hospital thing was interesting
15 though. The same groups that go down the line for abortion
16 reacted in horror to what the doctor said and said, we don't
17 support that. Now, if the doctor had been a little more
18 efficient and killed the same baby girl 20 seconds before
19 inside the mother, that would have been okay. But since the
20 baby survived and was killed, that is different. Right now
21 our law permits an abortion 20 seconds before a woman's due
22 date. Because the definition of health has been interpreted
23 so broadly by the courts, you can have an abortion at any stage
24 for any reason. 20 seconds before it is a legally permissible
25 abortion. 20 seconds afterwards, it is child abuse or murder.

1 I fail to find the logic or consistency in that. Absolutely,
2 Representative McHale, absolutely.

3 REPRESENTATIVE MCHALE: Well, may I ask the
4 question before you answer? The question is, is that holding
5 in Roe vs. Wade? Are you saying that that --

6 REPRESENTATIVE FREUND: Subsequent rulings have
7 held that you may, in Roe vs. Wade also, you may prohibit
8 abortions unless they are necessary for life or health.
9 Subsequent provisions after that have interpreted health so
10 broadly that you can have an abortion for any reason, including
11 the fact that the pregnancy will give you pimples.

12 REPRESENTATIVE MCHALE: Are you saying a state may
13 not --

14 CHAIRMAN DEWEESE: Hold on. Hold on. Wait, wait.
15 We're going to have it one way or the other way. You're
16 either going to read it and then we're going to ask questions.

17 REPRESENTATIVE FREUND: It is your show, Mr.
18 Chairman. I don't care.

19 REPRESENTATIVE MCHALE: Mr. Chairman, I didn't
20 mean to get into an argument. I was asking a question to
21 which I didn't know the answer. I think I know what Roe vs.
22 Wade says on the issue, but I am not sure what other cases
23 say. Are you saying that a state may not lawfully prohibit
24 a third trimester abortion in order to preserve the life of
25 the child? I think that is what you said.

1 REPRESENTATIVE FREIND: What I am saying is, the
2 state may prohibit third trimester abortions except when
3 necessary to preserve maternal life or health. What I am also
4 saying is that in subsequent Supreme Court decisions health
5 has been defined so broadly that it is an absolute blank check.
6 That under health you can come in for any reason whatsoever.
7 The same way until we cut funding, medicaid funding of
8 abortions. There can be any reason whatsoever under health.

9 REPRESENTATIVE MCHALE: I understand what you're
10 saying with regard to health, but you are talking about the
11 mother's health.

12 REPRESENTATIVE FREIND: Exactly, exactly.

13 REPRESENTATIVE MCHALE: If a state wanted to
14 prohibit third trimester abortions in order to protect the
15 life of the developing child, a state could do that.

16 REPRESENTATIVE FREIND: Unless, unless -- we do
17 that right now. Our law does that. Unless the abortion is
18 necessary to preserve maternal life, no problem. Maternal
19 health, as I said, three times before, has been interpreted
20 so broadly that it is a blank check.

21 REPRESENTATIVE MCHALE: Thank you, Mr. Chairman.

22 CHAIRMAN DEWELSE: No problem. Steve, just for
23 the help of the Chair, what page are you on? You are so
24 conversant with the subject that you are able to do it without
25 your paper. I have lost you.

1 REPRESENTATIVE FREIND: I am on page seven.

2 CHAIRMAN DEWEESE: I think the Chair will rule, we
3 will continue with Mr. Freind's presentation and then we will
4 ask for questions at that point.

5 REPRESENTATIVE FREIND: I didn't want to go out
6 of order, but I saw that they had questions.

7 CHAIRMAN DEWEESE: no problem, no problem.

8 REPRESENTATIVE FREIND: There is something that
9 generates controversy. I don't know what it is.

10 CHAIRMAN DEWEESE: You go ahead and continue and
11 we'll ask the questions after termination of your remarks.

12 REPRESENTATIVE FREIND: Okay. Parental notice,
13 we already have. The law right now in Pennsylvania says that
14 you have to have parental consent, I mean, of a minor. It says
15 you have to have the consent of one parent or court approval
16 for an expedited private court procedure. The only reason it
17 is not in effect, that has been upheld. But for the court
18 procedure in the '82 act, we mandated the Supreme Court of the
19 state to put the rules forth to promulgate the court
20 procedure. It took a year to do it. They were too broad, and
21 the court struck not the section, but the rules to promulgate
22 the court procedure. We are reinstating that in the law and
23 making sure the court procedure is both expedited and private.
24 A new and very controversial section deals with
25 paternal notice. You hear their argument that a man gets a

1 woman pregnant and then walks away and has no responsibility.
2 That is wrong. The law requires that he help support the baby.
3 That is in the law and we restate it in the '82 law. By the
4 same token, the law right now permits a woman, whether or not
5 she is married, to have an abortion without even notifying the
6 father of the child, including her husband, that his own flesh
7 and blood exists and it is going to be killed. We can't
8 require consent. We are not trying to do that. We are
9 requiring, however, with a number of exceptions there which
10 are detailed, legitimate exceptions, we are requiring that the
11 father of the unborn child be notified. And frankly, that is
12 going to result in a discussion which, to the surprise of the
13 woman, indicates that the male wants the baby and they can
14 work together to support the baby. At least the man has the
15 right to know. I think it is very important.

16 Wrongful life wrongful birth, let me just say this.
17 Birth is the only process that assures the continuation of the
18 human race. It can never be an evil. It can never be a cause of
19 action. And as Frank Viglietta pointed out, at a time right
20 now when we are recognizing the rights of the handicapped in
21 transportation, in education and all the other fields, we are
22 saying by the permission of these lawsuits that they don't
23 have the right to life because a child might not be "normal".
24 You know, whenever I hear about a child that is not normal I
25 ask two questions. What is normal and who is keeping score?

1 Down's Syndrome; is that abnormal? How about a cleft palate?
 2 How about red hair or freckles or someone who talks too fast
 3 or has a lisp? How about that? You know, in other times,
 4 in other generations --

5 REPRESENTATIVE REBER: He even has quotes.

6 REPRESENTATIVE FREIND: I thought you would get
 7 there. I took you a while. But I knew you would come around.

8 (Laughter.)

9 CHAIRMAN DEWEESE: I'm not even going to ask for
 10 order on that one.

11 REPRESENTATIVE FREIND: At other times, at other
 12 places, at other generations, we tried to clean up society
 13 and we have seen the results.

14 The other thing I find interesting about wrongful
 15 life wrongful birth is, whenever we go with informed consent
 16 on abortion, the other side says you can't tell a doctor how
 17 to practice medicine. That is exactly what the presence of
 18 wrongful life wrongful birth lawsuits are doing. Telling him
 19 the way he or she has to practice medicine. And from a
 20 pragmatic standpoint, it is these lawsuits that have
 21 skyrocketed malpractice and has caused many towns in
 22 Pennsylvania and throughout the country where you are not
 23 able to find a doctor to deliver a baby. They are getting out
 24 of obstetrics. They are staying just in gynecology.

25 Let me just briefly talk about the process of the

1 legislation. I genuinely appreciate the process of the
2 Chairman. But, you know, in the history of this legislature
3 we have never defeated a prolife bill. We have always had
4 majorities on the floor of the House and in the Senate. And
5 we never, and it is certainly not through design, had
6 majorities in key committees. And I can count. I know we
7 don't have the majority here. We don't have a majority in
8 Health and Welfare. But because we don't majorities is that
9 to say that an issue this important that the entire members of
10 the House shouldn't vote. The answer is no. Even if you
11 report it out, you are either going to vote it down, in my
12 opinion, or you are going to vote it out with a negative
13 recommendation. But even if you vote it out and we take this
14 vehicle, then it has to go over to the Senate where it gets
15 buried in a hostile committee. So, what we are going to attempt
16 to do, as you well know, since a very brilliant Chairman has
17 not permitted any Senate bills on Title 18 and Title 42 to
18 come out of this Committee, is to move to suspend the rules on
19 House Bill 1130 to introduce the amendment 1361. When you are
20 dealing with the lives of unborn children, in my opinion,
21 every second counts.

22 To criticize this process, incidentally, is to
23 criticize many, many of our laws which we passed. And if we
24 didn't do it this way, let's face it, we would never have a
25 budget if we are going to talk about process.

1 I have come into a lot of personal criticism being
2 the point man on the prolife movement. I am not complaining.
3 I am a big boy. I've got a thick skin: If I can't take the
4 heat, I should get out of the kitchen. I think it is
5 important to remember, however, that this issue is a heck of
6 a lot bigger than Steve Freind. I have never tried to
7 delude myself with my self-importance and I don't take myself
8 too seriously. If it weren't Steve Freind, it would be
9 someone else. It is a classic example of where the whole is
10 infinitely greater than all of the parts.

11 My dear colleague, Miss Josephs, has raised an
12 issue both today and at a press conference where she attacked
13 me for being irresponsible, and I heard the tape. And she
14 said, he is irresponsible because whenever you run a prolife
15 bill, there is an escalation of violence outside of abortion
16 clinics. Now, I am not sure that is true. But to carry that
17 argument to its logical or illogical conclusion, what you are
18 going to say is, if there is ever an issue that is so emotional
19 that might lead to violence, don't get involved. Now, under
20 that rationale we would have left slavery go on because it
21 resulted in one of the bloodiest wars in the history of the
22 United States. We would have had nothing whatsoever to do
23 with the civil rights movement bacuse that is old in violence,
24 and we would have had nothing whatsoever with apartheid. And
25 despite the violence that apartheid generates, and it is my

1 good friend and colleague, Miss Josephs, who is a down the line
2 consistent vote in favor of divestiture. Violence, absolutely.

3 REPRESENTATIVE JOSEPHS: Thank you for the plug.

4 REPRESENTATIVE FREIND: Absolutely. Happy to give
5 you the in. Violence, I have never condoned violence outside
6 an abortion clinic even though it pales to the violence that
7 is perpetrated every day inside the abortion clinic where
8 little babies are systematically pulled apart. But I'll never
9 condone it. Now, civil disobedience, I have no problem with
10 that and I am sure Miss Josephs doesn't either. Because of
11 the fact that is in the long and time mired tradition of this
12 country from the colonists to the civil rights workers, those
13 right now with respect to apartheid. Civil disobedience and
14 violence, there is a difference.

15 I have also been accused by my very dear friend,
16 and he is a dear friend, he is my colleague, he is a wonderful
17 Chairman, he is the only surviving member besides myself of
18 the class of May 10, 1976, of being terroristic in the way I
19 approach and get the bill out for a vote in his wonderfully
20 eloquent way he put that in a memo. And I don't take it
21 personally. I know he doesn't mean it.

22 But let me say this, if going to the wall to save
23 the lives of unborn children is an example of either
24 irresponsibility or terrorism, then color me irresponsible
25 and color me terroristic and I will accept both labels with

1 absolute pride. I am like a lot of other members up here.
2 I believe in this issue with my heart, with my gut and with
3 my soul. And I don't give a damn about the political
4 ramifications and I don't care what effect it has on my
5 political career. But if that would cost me my career, at
6 least I will be content to know that I can continue to look
7 in the mirror every morning and that I went down for
8 something worthwhile.

9 There is no doubt in my mind, however, that down
10 the road ultimately we are going to prevail. This nation has
11 shown a tremendous propensity for making mistakes and then
12 admitting those mistakes and rectifying them. And some day
13 the ultimate victory will be ours, and that, Mr. Chairman,
14 will be the happiest day of my life. Thank you for giving me
15 this opportunity. I will be happy to answer any questions.

16 CHAIRMAN DEWEESE: You are very welcome, Steve.
17 The terrorism remark, another example of my propensity toward
18 hyperbole was relative to the deliberative process. In the
19 many years that you and I have been here, you are right, we
20 are the only two left of our class. I don't know what that
21 has to say about us, but we have never had a chance, due to
22 some of the perspectives of people on my side of this issue,
23 to allow a committee hearing. We have a two-year biennium and
24 within the first six months of that two-year biennium, I made
25 a move to schedule a hearing and that was the only reference

1 I was trying to make. I wanted to have a hearing. I did not
2 want Steve Freind, my colleague, to obviate the need for this
3 kind of setting. Because heretofore on the floor of the House
4 we have had exceptionally invigorated, if not incendiary,
5 debate. We have not had people from both sides of the issue
6 come quietly, and we have had a relatively decorous hearing
7 today, discuss some of the fine print and some of the nuances,
8 what would happen in an incest case, notifying the father?
9 Different things that are valid for discussion. So, as you
10 and I both are culpable of, we have made some strong statements
11 on occasion, but as you have said, there is nothing personal.

12 REPRESENTATIVE FREIND: Absolutely, Mr. Chairman.

13 CHAIRMAN DEWEESE: I'm sure you didn't mean it
14 when you said these hearings were dog and pony shows and
15 garbage and everything else.

16 REPRESENTATIVE FREIND: No, I said dog and pony --
17 most public hearings, even our budget hearings, turn out to
18 be that, but certainly nothing personal.

19 CHAIRMAN DEWEESE: Okay. Let's ask for questions
20 from the membership to Mr. Freind. Miss Hagarty from
21 Montgomery County.

22 REPRESENTATIVE HAGARTY: This is more in the
23 nature of a comment. But having been here for many years and
24 heard Steve so forcefully and talentedly and successfully
25 advocate on his concerns on behalf of those he terms unborn

1 children, I guess I want to make the comment that I am sad
2 that he doesn't use the same time, talent, efforts and energy
3 on behalf of those women who do bring children into the world
4 without husbands, in poverty, without men who care, on
5 inadequate welfare checks, without prenatal care. And on all
6 of those causes that we work on such as better food, more
7 money for WIC programs so that the babies that are born will
8 be born well, to increase the medicaid funding for women and
9 children in this Commonwealth now consistent with the federal
10 guidelines so that babies aren't born prematurely. That
11 babies have adequate nutrition once they are born. I just
12 say to him and perhaps a challenge for the future, that I
13 believe on behalf of the many women and children in this
14 Commonwealth, that those efforts could be well spent to better
15 the lives of poor women, impoverished women and children who
16 barely exist today.

17 REPRESENTATIVE FRLIND: Very briefly, Mr. Chairman,
18 all I can respond to that is my dear friend, Lois, who has
19 driven me home many a number of nights when we had late
20 debates on the abortion bill, I don't believe has checked my
21 voting record. I have been a consistent, down the line vote
22 for increased funding for WIC. I sponsored legislation which
23 Morgan originally supported and then went south on me,
24 Planned Parenthood, to increase the welfare benefit for
25 pregnant women. To take into consideration the unborn child

1 and the additional expenses. I said you can't put a dollar
2 sign on human life, and when we need the money for legitimate
3 purposes to help the women, to help the babies, to be prolife
4 isn't just to be against abortion. It doesn't end when the
5 baby is born. Absolutely. And I think if you will check the
6 positions I have taken, I have nothing to apologize for with
7 respect to that.

8 REPRESENTATIVE HAGARTY: No, my only point was
9 if you take the forceful, upfront position that you have
10 taken on behalf of children who are already born in this
11 Commonwealth, those children would, number one, there would
12 be better prenatal care so that they could be brought into the
13 world healthy, in some cases, alive because they could live
14 to birth. And secondly, that once born they would receive
15 proper nourishment. And that if you thought about that side
16 of it, focused the same time, talent and energy on it. I am
17 criticizing your record on it, that we would have a better
18 Commonwealth with healthier children.

19 REPRESENTATIVE FREIND: I will try to do my best.
20 Life gets busy with the city wage tax, the convention center,
21 law enforcement bills and the adoption bill which we passed.
22 As a matter of fact, Lois, if you want to get into that, I will
23 put my voting record and my initiative, as being the sponsor
24 of bills ranging adross the gamit, up with any legislator here.

25 CHAIRMAN DEWEESE: Further comments. Mr. McHale

1 and Miss Josephs.

2 BY REPRESENTATIVE MICHAEL:

3 Q Steve, I have got some concerns. You heard me
4 voice earlier with page 23 of the bill, line 26, public funds
5 for legal services. Would you explain your motivation behind
6 introducing that into the original draft of the bill?

7 A What we did not want to see on either side of the
8 issue is the legal services funds being used in the abortion
9 battle. As a matter of fact, as a lobbyist going up to
10 challenge the law. I think one thing you may not be aware of
11 that was in the bill. What we did was, is write an existing
12 law and even extend it in this new bill saying whenever a
13 woman needs a lawyer and cannot afford one either way, to get
14 an abortion or prevent an abortion, our provisions take care
15 of court appointed counsel. It gets us out of the money going
16 to legal services, provides for court appointed counsel
17 instead. I think if you look at the bill, you will find that
18 no woman who is needy on these issues of obtaining abortion or
19 fighting to be forced to have an abortion will be without a
20 lawyer.

21 Q Why do you object to the funds going through legal
22 services but approving the funds on either side of the issue
23 being provided by the court?

24 A I will be very pragmatic with you. I have seen
25 some of those organizations who get the legal services funds

1 do with it. They come up and lobby down the line the other
2 way. Now, Mrs. Freind's son may not be a genius, but I do not
3 want to support giving money to those groups that turn around
4 and do everything they can to destroy causes which I hold dear.
5 Let's keep legal services abortion neutral. God knows there's
6 enough division on the abortion thing there. Let's leave legal
7 services for all the other problems. We've got the provisions
8 for court appointed counsel for the women.

9 Q How will those provisions work?

10 A Whenever a woman is in need. And if you look at
11 the sections, this relates to paternal notice, parental consent,
12 incompetency, lack of ability to make a decision. The
13 provisions are there that she goes to the Court of Common
14 Pleas and has court appointed counsel.

15 Q Who is going to provide counsel? The court will
16 select --

17 A That is correct. The same way the court right now,
18 I am a public defender, you are a private lawyer. We are
19 representing joint defendants. The public defender can only
20 represent one. The court appoints the other one.

21 Q How can you, in light of the Arizona decision with
22 which you are very familiar, upon which we once disagree and
23 it turned out you were wrong and I was right. You subsequently
24 admitted that in a recent number of memos that I saw. You did,
25 and I think you will admit to it now?

1 A Yes.

2 Q The law is simply not what you would like it to be.

3 A Well, let me make one thing clear. At the time we
4 were not wrong. After our debate is when the Arizona case
5 came down. And as it proved with the court's subsequent
6 decision, they upheld your position and not mine.

7 Q Now, having been right once before, let me
8 second-guess the Supreme Court on a related issue.

9 A If you can do that.

10 Q Well, I did it successfully once before. See, my
11 genuine concern is this. Although under existing law, there
12 is probably not a constitutional right to legal services in a
13 civil action as opposed to legal aid in a criminal action, I
14 find it difficult to believe that once legal services are
15 provided in a civil action by the Commonwealth of Pennsylvania
16 or any other state, that thereafter you can say in certain
17 kinds of cases involving constitutionally protected speech,
18 abortion counseling, that you will on that basis deny funding
19 to an indigent woman who seeks to go to court. How can you
20 justify that constitutionally? I appreciate that you would
21 like to abolish, I assume, abortions counseling. I have my
22 own views on that issue that might be remarkably close to yours.
23 I think that would surprise you. But the court has said abortion
24 counseling is constitutionally protected speech. How can you
25 deny legal services to a woman because she exercises her rights

1 under the first amendment?

2 A All right, let me answer that two ways. Number
3 one, with respect to the Arizona case, it doesn't apply here.
4 The Arizona case related to organizations, not to the funding.
5 No court decision has ever said that you cannot provide funds
6 and limit what you use those funds for. What Arizona did is,
7 where they put the funds, they said any organization that
8 received funds can't.

9 Q Any organization that counsels on this issue, you
10 could not receive the funds?

11 A Can't receive the funds, exactly. If they receive
12 the funds, conversely, they cannot counsel. That was stricken.
13 Incidentally, one of the reasons that neither one of us
14 can talk with any, much more expertise on it, unfortunately,
15 it was the type of case that came down from the Supreme Court
16 without an opinion. There was no opinion on that case.

17 Q There wasn't oral argument?

18 A Right.

19 Q There was reason for that. The court felt that it
20 was so clear that they immediately entered an order.

21 A I'm glad that you can look into the minds.
22 Because if I can figure out what is in the minds of those nine
23 people, believe me, I would patent that and get the hell out of
24 the legislature entirely.

25 Q It is rare that the court will enter such an order

1 oral argument. There is usually a reason why the court does
2 that.

3 A Well, since it was never taken before and it is
4 the first decision, one would think that logic would dictate,
5 and I admit that logic and the court are mutually exclusive
6 terms. If they would at least take the time to come down
7 with an opinion so we knew where they were coming from. Since
8 it is a case of first impression.

9 But at any rate, I would think your other concern
10 would be legitimate if we did not take into consideration the
11 court appointed counsel section. Under the provisions of both
12 the existing 1982 law and this law, any woman that needs a
13 lawyer on either side of the abortion issue will be able to
14 get one.

15 Q Steve, without belaboring this issue, and I have
16 raised it several times and I have strong feelings about it.
17 In the past, I have had to vote against measures that I
18 wanted to support because I felt you were making them
19 unconstitutional. Without even a cursory review of the
20 Supreme Court decision one could conclude that the amendments
21 you sought to add and what were otherwise very good bills
22 were unconstitutional. I wanted to vote for money in the
23 last session to help poor women who would choose to go forward
24 with their pregnancies and raise their children. I don't
25 think we are doing enough compassionately to help those women.

1 I had to vote against your amendment because of a provision
2 very similar to this that I thought rendered it unconstitutional.
3 I see it here again in 1361 where it really bothers me. It is
4 obviously related to 1361 because it is in front of us right
5 now. Because in terms of what happens on this issue next
6 week when IOLTA comes up, there is a legitimate difference of
7 opinion as to whether or not interest on lawyers trust funds
8 should be used to provide legal services for the poor. I feel
9 very strongly that that funding should be used that way.

10 I think putting aside the abortion issue, that is
11 going to be a very close vote, whether or not we provide those
12 kind of services to poor people. I think as a matter of basic
13 fairness, and frankly, my own constitutional view, although
14 this is not existing law, we ought to provide those kinds of
15 services.

16 I would hate to see poor people be denied legal
17 services, be denied equal access to the court because we have
18 blended in a provision of questionable constitutionality
19 regarding abortion counseling and advocacy. Whatever side of
20 the issue you are on with regard to counseling, I would hate
21 to see that destroy the opportunity for legal services for
22 the poor. Just as in the last session you destroyed the
23 opportunity to provide meaningful funding for women who would
24 want to go forward with their pregnancy and raise their
25 children despite difficult economic circumstances.

1 A Let me briefly respond. I think we have taken
2 care of a lot of your problems in 1363, which is not even
3 before this Committee. But you know, Mr. Chairman, there is
4 a heck of a lot of women who need help who believe in
5 pro choice. They have a right to choose. In exercising that
6 choice, they don't want to be assisted by any organization
7 that has any connection with abortion. And by God, I think
8 those women have a right to be helped too. Now, you are right.
9 We ran into some constitutional problems. We think we have
10 resolved that in 1363. As far as I know we have the same
11 concern. Although this time I have to admit, again, it is the
12 lightning rod here, I am not the prime sponsor of the
13 amendment. That prime sponsor is a distinguished lawyer from
14 the great city of Philadelphia, Representative Kosinski, and I
15 am sure you will have an eloquent discussion on that.

16 Q I am certain. Steve, I would also point out in
17 the last constitutional debate, when Gerry apparently was not
18 aware of the Supreme Court's position as articulated in the
19 Arizona decision, he very forcefully on the floor of the House
20 said that such a prohibition was clearly constitutional.

21 A And up until that point, that was before Arizona,
22 Mr. Chairman.

23 Q Well, the Supreme Court promptly said he was wrong.
24 I will listen to his opinion but weigh it in that context.

25 A Let me say one thing. I can't put on a hat and

1 tell what the court is going to do. You look at the language
2 of the June decision and look at the dissents. Some were
3 ludicrous. As a matter of fact, talk to any legal scholar on
4 the other side of the abortion issue, they will tell you Roe
5 vs. Wade, from a judicial standpoint, it is garbage. Horrible,
6 regardless as to how you feel about abortion.

7 But you know, I am told we get all of our
8 legislation stricken. 70 percent of the Abortion Control Act
9 of 1982 is in effect. I was told when we cut off the medicaid
10 funding on abortions it wouldn't stand up. And they took us
11 into federal court and we beat them there. And they took us
12 into state court and we beat them there. So, you know, our
13 track record with respect to constitutionality, is not too
14 shabby. I would never, let me say to you, I would never run
15 an amendment or a bill which I believe in my heart to be
16 unconstitutional. But part of it, not knowing what the court
17 is going to do, is a trial and error process. And when you
18 get shot down, you go back to the well, relent and go back
19 again.

20 Q I will close with this, the difficulty I have is
21 on the 70-30 ratio, all too often I would like to support
22 70 percent of what you are proposing. But because 30 percent
23 rambles all over the first amendment, I find myself compelled
24 to vote against things that I would very much like to support
25 were it not for the unconstitutional, including certain

1 amendments, that I think are predictably unlawful. I don't
2 think there is one chance in a hundred that the court, and you
3 are motivated by, I believe, animosity toward legal services,
4 I don't think there is one chance in a hundred that a court is
5 going to say an individual may gain benefit of public funding
6 through legal services unless that individual exercises his or
7 her freedom of speech under the first amendment, and if that
8 exercise does occur, the money will be cut off. And that is
9 abortion neutral as you candidly point out. My opposition to
10 that amendment is abortion neutral. I very much oppose that
11 amendment and probably will have to vote against the overall
12 bill. Because I believe that that amendment is clearly in
13 violation of freedom of speech, whether that speech be
14 exercised to procure abortion or to prevent it. Thank you,
15 Mr. Chairman.

16 A A quick response. Your overall problem of taking
17 a bill that has a lot of things you support and a lot of things
18 you oppose is not unique, Mr. Chairman. We all face that
19 problem on a whole lot of issues and that runs with the
20 territory. We are called upon to do that time and again. Let
21 me say one other thing. If you are right, and you are the one
22 who has been telling me, I say this in a nice way, but you
23 have been right on the constitutional clause. You see a bill
24 where you like 70 percent of it, but you will oppose the
25 other 30 percent, not because you may oppose it personally.

1 but because you think it is unconstitutional. In view of that,
2 if you have severability clauses, they are going to get
3 shot down. Vote for the bill, the other 30 percent is going to
4 get blown away anyway.

5 Q Steve, I would simply suggest to you that if you
6 legitimately attempt to clarify what the constitution requires
7 on a given point, that you exercise some judgment as to
8 when you choose to test that principle. Take an amendment
9 such as this, attach it to the bill that you think is going to
10 pass and then litigate it. But don't kill aid to indigent
11 women. Don't kill IOLTA by attaching this kind of amendment
12 to every bill that comes down the pike. Because I fear that
13 if this amendment is attached by you or by someone else to
14 IOLTA, what will, under any circumstance, be a close vote, may
15 become a negative note. And that isn't necessary to test your
16 constitutional principle with regard to abortion counseling
17 or legal services.

18 A I don't want to prolong this, but you know
19 something, the prolife movement has shown incredible
20 restraint every budget time. Knowing you have the majority
21 in the House and the Senate, but getting butchered in the
22 conference committee. But making the decision, hey, we are
23 not to go to the wall. It is more important to pass it, you
24 know. We try, Mr. Chairman. It is not like we want to go to
25 the wall all the time. You've got to pick and choose your

1 battles and that is what we are trying to do here.

2 REPRESENTATIVE MCHALE: Thank you, Mr. Chairman.

3 CHAIRMAN DEWEESE: You are welcome. Are there any
4 other comments for Mr. Freind? Miss Josephs.

5 REPRESENTATIVES JOSEPHS: Thank you, Mr. Chairman.

6 BY REPRESENTATIVE JOSEPHS:

7 Q Representative Freind, I thank you for your
8 disavowal of clinic violence. I hope that you will be
9 consistent in all your public forums in condemning it. Along
10 those lines, assuming for the sake of argument that we could
11 come to some agreement of what's civil disobedience, what's first
12 amendment rights in that area where it becomes violence,
13 assuming for the sake of argument we could decide on that
14 definition, would you be willing to support legislation which
15 severely, more severely, penalize people who do allow
16 themselves or do encourage themselves or become violent against
17 abortion providers and those people who do have abortions.

18 A Absolutely not. Where is abortion the sacred cow
19 to make that violence any worse than violence in any place
20 else? The violence outside of the South African embassy and
21 anyplace else. It's not a sacred cow. Do you want to get tough
22 overall on violence, overall legislation for everything, fine.
23 But to single out abortion, not a chance in the world, Miss
24 Josephs.

25 CHAIRMAN DEWEESE: He has already done that,

1 Babette. he is pretty tough on sentencing, et cetera.

2 REPRESENTATIVE JOSEPHS: I have another question.

3 CHAIRMAN DEWELSE: You are recognized.

4 BY REPRESENTATIVE JOSEPHS:

5 Q Part of this bill, and I think you talked about it,
6 requires that a woman submit a nonnotified and verified statement
7 that she has notified the partner in this pregnancy, of her
8 intention to secure an abortion. It seems to me if I were in
9 this situation, I or others might, just write something
10 without necessarily telling anybody, since I really believe
11 that to be a serious unconstitutional invasion of privacy.
12 If I did that, or another woman did that, what penalties would
13 she be subjected to?

14 A The existing penalties on giving a false statement,
15 as a matter of fact, if you want an exact answer, I will be
16 happy to -- because we worked on this and Eddie Hussey (phonetic)
17 is here to give the exact response if you want exactly that.
18 Part of the key, you have to say in the statement that they
19 are penalized for giving false information on an unsworn,
20 unnotarized statement. I believe it is a third degree mis,
21 or is it second degree?

22 UNIDENTIFIED SPEAKER: Unsworn falsification to
23 authority is second degree.

24 REPRESENTATIVE FREIND: Second degree mis.

25 UNIDENTIFIED SPEAKER: Unsworn falsification on a

1 form bearing notice that it is punishable by law is a third
2 degree misdemeanor.

3 REPRESENTATIVE FREIND: To the authorities it is a
4 second degree mis, to anyone else, but it has the statement,
5 it is a third degree mis.

6 REPRESENTATIVE JOSEPHS: Then what is the maximum
7 penalty for a third degree misdemeanor?

8 UNIDENTIFIED SPEAKER: A third degree maximum is
9 one year, a second degree maximum is two years.

10 REPRESENTATIVE JOSEPHS: So, we are talking about
11 putting women in jail for a year or two?

12 REPRESENTATIVE FREIND: We are not talking about
13 that. It is not a mandatory sentence. We a r e talking
14 about that, making it a crime, that would be up to the
15 discretion of the judge if found guilty, whether or not to
16 fine, probation or jail. It is not mandatory sentencing, Mr.
17 Chairman.

18 CHAIRMAN DEWEESE: I'm the Chairman. She is not.

19 REPRESENTATIVE FREIND: Well, I thought we did the
20 same thing as we do with the speaker, direct everything to the
21 Chairman. I am trying to have decorum as you said in the
22 beginning. It's difficult.

23 BY REPRESENTATIVE JOSEPHS:

24 Q Mr. Freind, in your memo, which you recently
25 circulated to us in the House, which I think you didn't

1 discuss here, you are proposing a different way of control and
2 punishment for people who do not report to the appropriate
3 authorities that they are victims of rape or incest. To my
4 understanding, that procedure would involve a statement to the
5 doctor who performs the procedure, which the doctor then
6 forwards to the Department of Public Welfare when he or she is
7 seeking reimbursement for the procedure. The Department of
8 Public Welfare is then to check with appropriate law
9 enforcement authorities to verify whether or not the woman has
10 actually reported as she, as you think she should. That is
11 essentially correct, is it not?

12 A Pretty close, Miss Josephs.

13 Q Again, I ask what penalties would you envision be
14 brought against a welfare recipient, this is a welfare
15 recipient?

16 A Not necessarily, it's a medicaid --

17 Q Medicaid recipient, you are correct, who would
18 falsify such a statement.

19 A The same exact penalties as before in addition to
20 which there also could be the crime of attempting to obtain
21 the benefit of the Commonwealth funds under false pretenses.

22 Q Well, we are very likely talking here about a
23 person who is not only medically indigent, but indigent enough
24 to be on aid to families for dependent children, let's say
25 hypothetically, who has other children who she is supporting.

1 Who commits this crime, who might be subjected to a year or two
2 in jail and might then have to take out of her cash grant
3 some amount of money to pay back the Commonwealth, is that
4 correct?

5 A Once again, the court, if they find the individual
6 guilty, will weigh all the circumstances with respect to
7 sentencing. Let me back up a minute, a little history. We
8 passed this cutoff in 1980.

9 Q I am aware.

10 A We reaffirmed it in 1982.

11 Q I am aware.

12 A When we did it, we left it up to the Department of
13 Public Welfare and the cutoff said no funding for abortions
14 except for the life of the mother, rape, incest, if reported
15 promptly. We left it up to Welfare to promulgate the regs for
16 the reporting. Welfare blew it and came back and said 72
17 hours. I think they did it on purpose because they knew we
18 would get blown out of court. 72 hours is ludicrous.

19 But there has to be some reporting for a couple of
20 reasons. Look at the stats that I have provided you. Until
21 the medicaid funding cutoff went into effect, you never had
22 rape or incest abortions. Zero in January, zero in February
23 of '85, one in March. But then once you get in when it is
24 really in effect, in May of '85; 41, 28, 60, 65 and on and on
25 and on. Incredible escalation because of medicaid funding

1 cutoff. There isn't any doubt whatsoever that there is a lot
2 of fraud involved here. You have a loophole because there is
3 no reporting requirements, the court struck it, that you could
4 take the battleship Missouri in sideways. That is factor
5 number one.

6 Factor number two, let's not forget that rape and
7 incest are crimes against the Commonwealth of Pennsylvania.
8 And if you are coming for a medicaid funding abortion and you
9 are already reporting it anyway, you have got to disclose it
10 to the doctor on rape or victim of incest, also do it to a
11 law enforcement agency when it came to a minor with respect to
12 incest, child county protective agency. This is also for
13 justice, to help ensure that the victim is not abused again.
14 Tremendous recidivism rape, in date rape and also incest and
15 to protect other potential victims.

16 Now, what we have done with the new procedure is,
17 make it a lot more workable and a lot more lenient with
18 respect to the woman. There is no time limit. It is just
19 that before you go for the abortion you have to go to a law
20 enforcement agency or the child county protective agency and
21 file.

22 Q I would suggest to you that part, if not all of
23 the reasons that the number of procedures requested because of
24 rape and incest went up is because people who are not forced
25 to share that information will not do so. They will come for

1 their procedure and they will leave and they will only talk
2 about these difficult and very unfortunate traumatizing and
3 unhappy experiences if we force them to, and I have not much
4 desire to force them to do that.

5 One last thing, you paraphrase me, I am assuming
6 that, I know this was not a correct quote at the press
7 conference last week, I assure you I never use the words
8 prolife. I only use them in connection with my friends who work
9 in the peace movement. I do not believe that people who want
10 to make abortion criminal, have anything to do with promoting
11 life. And I don't like having those words attributed to me.

12 A Very briefly to respond, two things. Number one,
13 with respect to the rape/incest exception, a woman can get
14 pregnant from rape. If you study statistics, however, the
15 percentages are infinitesimal. Marty Mullen, who used to
16 serve in this House, when he was running a bill about 1968 or
17 1969, went to the DA, went to the Philadelphia Police
18 Department and said, for as long as you have records, for as
19 long as you have records of every rape, find out any that
20 resulted in a pregnancy. Now, I know this is not an absolute
21 yardstick, but there were none. Can you become pregnant from
22 rape? Sure. Are there any exceptions? Sure. Part of these
23 70 or 65 a month fraud, yeah, absolutely.

24 One other thing, attack me all you want. At
25 least with your press conference, you were not just taking on

1 me, you were taking on Cardinal Krohl of the Catholic church
2 and I appreciate that. I don't know if you are lumping me
3 together, but what can I tell you. Thank you.

4 REPRESENTATIVE JOSEPHS: I don't actually ever want
5 to lump you together, Mr. Freind, with an institution that I
6 respect as much as the Catholic church.

7 REPRESENTATIVE FREIND: Well, I appreciate that.

8 CHAIRMAN DEWEESE: Any other comments?

9 (No response.)

10 CHAIRMAN DEWEESE: If not, Steve, thank you very
11 much.

12 REPRESENTATIVE FREIND: Thank you, Mr. Chairman,
13 I appreciate it.

14 CHAIRMAN DEWEESE: You are very welcome. We are
15 going to take a five-minute break for the Court Reporter.

16 (Brief recess.)

17 CHAIRMAN DEWEESE: Reverend Brooke Mosley, would
18 you please come forward? The Reverend Brooke Mosley, Episcopal
19 Bishop of the Diocese of Pennsylvania, will please come
20 forward, we will welcome his testimony. Good afternoon,
21 Reverend Mosley, and again, thank you very much for your
22 flexibility. You have been bandied about to three or four
23 different slots and I personally am very grateful.

24 REVEREND MOSLEY: That's all right. I am happy
25 not to have missed that last witness. And I thank you, thank

1 the members of the panel for what you are doing for us. Not
2 just in these hearings but for Harrisburg generally.

3 I am Bishop Mosley and I have tried to be an active
4 bishop on behalf of our church, the Episcopal church in
5 Delaware and New York and in Europe, and more recently, in
6 Pennsylvania. I have done that for a number of years. I am
7 retired and not still work part-time at that and also work
8 part-time as a volunteer for Planned Parenthood where I am
9 now, they call me the honorary chair, not chairman, chair,
10 which is what Colonel Roberts calls it, remember?

11 CHAIRMAN DEWEESE: Thank you for revivifying my
12 recollection.

13 REVEREND MOSLEY: Some people don't like that word.
14 Let's go back, you are living by rules of order, are you not,
15 Roberts. That is what he calls it.

16 All right. I would like, if I may, just speak to
17 some of the things we have been talking about here in the
18 last few minutes before I get into the written text. I think,
19 first of all, I would like to tell you, I would like to
20 remind us, not being a lawyer, I am on thin ice here but I am
21 quite sure I do know the Dred-Scott decision didn't say Dred-Scott
22 was not a human being. That wasn't the issue. The issue in
23 the Dred-Scott decision was whether or not Dred-Scott was a
24 citizen entitled to sue in the United States courts. So, the
25 previous witness did slip up on that. I point it out, however,

1 because it is frequently said that is what the Dred-Scott
2 decision was all about and that is false.

3 I would like to get back also to the issue first
4 raised by Representative McHale about the beginning of life.
5 I don't want to belabor that and I wasn't going to mention
6 this at all. For instance, it is not in my paper at all. I
7 wasn't going to mention it because I thought we settled that.
8 I have been here before, not before this Committee, and we
9 talked about it then. So, I thought I wouldn't talk about it
10 now, but I feel since we have raised the question, I want to
11 say something about it. I have been here since we started this
12 morning, and I have heard people say time and again, we are
13 talking about unborn children. And that is a point of view
14 which people are entitled to hold, but I want to point our for
15 this group and for the record, that that is a matter of belief.
16 There is no way that one can prove that we are talking about
17 unborn children. We are talking about fertilized ova, we are
18 talking about zygotes, we are talking about embryos. At some
19 stage along the way they become persons. We are not talking
20 about when life begins. It is obvious that sperm is life,
21 human life. It is obvious that the female egg, the ovum, is
22 human life, and when they come together we have human life at
23 that instant. So, we can say, I would agree human life begins
24 with the fertilization of the ovum, the egg.

25 That doesn't make that a human being. It doesn't

1 make it a person, and that is what the argument is all about
2 and it has been for as nearly as I can tell, 3000 years.
3 Theologians and philosophers and other people interested have
4 debated and researched and thought and went back to the labs
5 and came back and there is no agreement whatsoever as to when
6 a person becomes a person. Some of the great people that
7 philosophers like to lean on, such as St. Augustine, would
8 say, and a large part of the christian church thinks very
9 highly of St. Augustine, said that a person becomes a person, or
10 ensoulment as he called it, becomes a person once the pregnant
11 woman can feel movement. Once there is quickening. St.
12 Thomas Aquinas said, on the other hand, oh, no, and he came some
13 hundreds of years later. And again, a large part of the
14 christian church thinks St. Thomas Aquinas's philosophy is
15 basic to their thinking. St. Thomas Aquinas said, oh, no, a
16 person becomes a person, ensoulment occurs, hominization
17 occurs 40 days after conception for a male, 80 days for a
18 female. Now, what did he know? Just as much as you know. No
19 more. What do I know? No more. This is a leap of faith as
20 to when, not when life begins, of course, it is life. Sperm
21 is life, but it is not your colleague It is not a person.
22 human life, the sperm, ova, to be sure, united or separate,
23 that person occurs later somewhere in God's mysterious
24 creation and there is definite disagreement on that and has
25 been forever.

1 As a matter of fact, those parts of the church
2 here today, which are quite definite in their teaching, haven't
3 always been so. It has only been in recent years that they
4 have finally said this is what we believe. They can't prove
5 it. I can't prove my point. I believe that a fertilized egg
6 is not a person. That it becomes a person sometime later.
7 When, I don't know that exactly.

8 If it were true that a fertilized egg is a human
9 being, a person, then how do you account for the fact that
10 miscarriages are not baptized? That miscarriages are not
11 taken to the coroner. That the funeral director is not called
12 in and that the miscarriage entity is not given a name. We
13 know that 25 to 30 percent of all conceptions end in
14 miscarriages. Are these people, these persons? To my mind
15 they are not. Can I prove it? No. Can people who believe
16 the opposite of it prove it? No. It is a leap of faith.
17 Call it religion if you want. In my case, you have guessed
18 that. It doesn't have to be religion. It can be a secular
19 leap of faith. So, that is behind a lot of what I have
20 already said in this paper.

21 And what I said was, the Episcopal church
22 officially supports the right of a woman to a free and
23 responsible choice regarding abortion. That point of view
24 has been expressed, through its highest authority, The General
25 Convention, made up of its highest authority, made up of clergy

1 and lay persons, and it said, that the church expressed
2 "its unequivocal opposition to any legislation on the part of
3 the national or state governments which would abridge or deny
4 the right of individuals to reach informed decisions in this
5 matter (of abortion) and to act upon them." No government has
6 the right to deny its citizens this freedom.

7 Similar convictions have been officially
8 expressed by many other Protestant churches and by the American
9 Jewish Congress, the Central Conference of American Rabbis,
10 and other Jewish communities of faith.

11 In addition, of course, it is the firm belief of
12 Planned Parenthood, which I also represent here today.

13 My dictionaries tell me that to abridge freedom
14 means to decrease, to diminish, to lessen, to reduce, to
15 weaken and to constrict. All of this is precisely what House
16 Bill 1361 will do to a woman's freedom. Indeed, everybody
17 knows, it is obvious from what we know of the history of this
18 bill, that that is what it is intended to do. That is the
19 point of it. Make it difficult. I believe that could almost
20 be a quotation from somebody else.

21 The bill requires, as you know, "parental consent"
22 for an abortion if the pregnant woman is less than 18 years
23 of age. It takes five pages of that bill to outline all the
24 legal footwork and worrisome maze that the pregnant woman must
25 face if it proved impossible for her to gain her parents'

1 consent. All of it is time-consuming and expensive. Nor is
2 parental consent likely to improve family life. A young woman
3 who can easily discuss her pregnancy with her parents will do
4 so and there are many families where that can obtain. But
5 there are many others from a less compassionate family, and
6 they are likely to postpone such a heavy parental confrontation
7 or avoid it altogether.

8 It any case, I cannot believe that forcing a
9 youngster to confront an unsympathetic parent is likely to
10 improve her family life. Nor do I applaud the alternative
11 provided, which would require a 13 or 14 year old pregnant
12 child going through the intricacies of an appeal to the courts.
13 The fact is, as I look at it, this bill aims to abridge her
14 freedom, aims to contradict, aims to weaken, aims to make it
15 harder for her to make her choice.

16 The section on "informed consent", I am not a
17 lawyer but just because I think I can read, forces physicians,
18 under the threat of prosecution and loss of license, to give
19 the patient a biased account of medical risks. It speaks of
20 all the difficulties of "infection, hemorrhage, of infertility"
21 and so forth, all of the negatives including prejudicial, I
22 believe, "printed information" in three languages and that is
23 designed to alarm, it seems to me. And all of this costs
24 more time and more money. It was said here earlier today by
25 one of the witnesses, no, it was said more than once as a

1 matter of fact, that this informed consent is word for word
2 of what already exists for other medical procedures. That may
3 be so. I don't know whether that is so or not. But if it is,
4 I would maintain the procedure for abortion is quite different
5 in terms of mental stress as citing difficulties and all the
6 rest compared to an appendectomy.

7 We saw here today a very dignified and obviously
8 competent gracious physician break down and cry because he
9 talked about performing an abortion. Now, I don't believe he
10 would have been so affected if he were talking about an
11 appendectomy or some other procedure. Why? Because it is so
12 highly emotional. It is different. And when we speak of
13 informed consent in this bill, I think we are overlooking that
14 fact. It is a further abridgment the way it is put in the
15 bill. In my mind, it is a further abridgment than it is
16 intended to be, I believe, of a woman's freedom to choose
17 wisely.

18 Sections of the bill entitled "Viability",
19 "Abortion after Viability", and "Reporting" require physicians
20 and providers to penetrate their way through, what seems to me
21 to be, an entanglement of legal requirements that could ensnare
22 even the most conscientious person. It is obviously designed
23 either to trap or to scare away those compassionate
24 professionals who wish to serve the women who need them. Those
25 sections of the bill, to my mind, clearly abridge, using the

1 same word again, the freedom of the professionals as well as
2 the freedom of the pregnant woman.

3 For at least these reasons; and also because I
4 believe that in certain cases, an abortion is the most loving
5 and compassionate option available, and also because I added
6 at the first that I do not believe an embryo in the earliest
7 stages is a living human being, a person. For those reasons
8 I am convinced, a leap of faith, can't prove it. I believe
9 that an abortion can be in certain cases, the most loving, the
10 most compassionate and the most just, right and necessary
11 option. I join with Planned Parenthood in opposing in its
12 entirety, therefore, Bill 1361 or others like it. I hope the
13 day will soon come when we can spend our time and our energies
14 together, and I really do appreciate the time and energy you
15 folks spend. Regardless of what your point of view is, it's a
16 good lesson in good government to be here today and I
17 appreciate it.

18 But I hope the time comes when we can spend the
19 time and energy together in finding ever better ways to enlarge
20 human freedom, and especially in the delicate and intimate
21 and personal matters of human sexuality. Thank you.

22 CHAIRMAN DEWLESE: Thank you, sir. Comments or
23 questions? Mr. McHale.

24 REPRESENTATIVE MCHALE: Thank you, Mr. Chairman.

25 BY REPRESENTATIVE MCHALE:

1 Q bishop, I think you heard me earlier engage in a
2 dialogue with Mr. Freind where I expressed some concern about
3 his point of view on a number of issues.

4 A Yes, I did.

5 Q I think you may have heard me say earlier in the
6 day that I am one of those legislators who did not hear God
7 speaking to the far right or to the far left. And with some
8 divine guidance I am afraid I am trying to pick my way through
9 what is a very difficult moral and legal mine field.

10 I gather from what you said that you believe from
11 the very early stages of pregnancy, a woman's right of privacy
12 takes precedence over other constitutional concerns such as
13 the state's concern with regard to the protection of the life
14 of a developing child, fetus, whatever term you want to use.
15 That a woman's privacy at that point early in the pregnancy
16 ought to be preeminent concern.

17 A I do believe that. There is no question to me
18 that a pregnant woman is a person. There is a question in my
19 mind as to whether an embryo, certainly a zygote or a
20 fertilized egg is a person. I don't believe that. I can't
21 prove it but I don't believe it.

22 Q I understand. Now, going to the other, the
23 opposite end of the pregnancy, forgive me for phrasing it that
24 way.

25 A That is all right.

1 Q I am sure there are different ways of describing
2 that. As I say, the pregnancy, as we consider the third
3 trimester of pregnancy, is it your view that at that point the
4 fetus or developing child has biologically grown or developed
5 to the point that the life of that unborn child would take
6 precedence over the woman's right of privacy? In other words,
7 is it a matter, are we dealing with one life or two in the
8 third trimester? Is it simply a matter of personal choice
9 whether or not the pregnancy should be terminated?

10 A Well, I think it is all one life, but it comes in
11 certain stages. I think the Supreme Court recognized that.
12 You mentioned that.

13 Q That's really what I'm getting at.

14 A Sure. And what the Supreme Court says about the
15 third trimester, I agree and say, yes, let's go along with
16 that.

17 Q You believe the state does have the right to
18 protect the life of the developing child in the third trimester.

19 A Yes.

20 Q Where do you draw the line, and I recognize that
21 the lines must be drawn according to dictates of conscience, but
22 inevitably somewhat arbitrarily in terms of when you pass the stage of
23 when the woman's right to privacy is preeminent to the point
24 that the state has the right to intervene to protect the
25 right of the developing child?

1 A Well, again, I think the Supreme Court has given
2 us guidelines for that and I would turn to that. But apart
3 from that I would leave it to the woman. It is a free choice.

4 Q Even in the third trimester?

5 A No, within the framework of the Supreme Court
6 decision.

7 Q That really brings me to an area from a legal
8 standpoint that is most difficult for me, and that is, the
9 Supreme Court, as I understand it in Roe, has said that in the
10 second trimester the state may not pass laws intended to
11 protect the life of the developing fetus. I think that Roe says
12 the state may pass laws in the second trimester to protect
13 the life of the mother, but not to protect the life of the
14 fetus. We heard testimony this morning from the doctor who has
15 indicated with changes in technology, it's now possible for a child to
16 be born during the latter stages of the second trimester and
17 survive. That brings into a clash the holding of Roe V. Wade
18 and developments in recent technology. Could you explore
19 your thoughts on that?

20 A Well, my thoughts, again, is to stay with the
21 Supreme Court decision as long as it exists and I hope that is
22 going to be a long time. Then, play it by ear as medical
23 science advances. If it seems to the physician, to the
24 medical fraternity, express through their professional
25 agencies that a week should be dropped back rather than 24,

1 if it should become 23, we would take that into consideration.
2 But leave it up to the individual woman in conference with wise
3 professional counseling, medical and otherwise.

4 REPRESENTATIVE MCHALE: The reason I raise this
5 questioning is, I think we are rapidly approaching that point
6 now in terms of the ability, in terms of modern medicine to
7 protect the life of that fetus in the second trimester.
8 And that is going to raise some very profound moral and legal
9 issues.

10 Bishop, the only other area that I wanted to --

11 CHAIRMAN DEWEESE: Just one quick interruption,
12 Cathy Dratman, medical doctor, will be testifying in a little
13 bit and those questions would be relevant. Again, I hope
14 your schedule will allow you to answer some of the questions.

15 BY REPRESENTATIVE MCHALE:

16 Q I raise the question for the Bishop not so much
17 from the medical standpoint, because of questions of conscience
18 that arise out of changes in medical technology.

19 A Sure.

20 Q Bishop, the other area where, again, I guess
21 in the interest of fairness, I'll ask you some inevitably
22 difficult questions just as I asked Representative
23 Friend.

24 A I expect you to.

25 Q I appreciate your understanding of

1 why those kinds of questions are asked on both sides of the
2 issue. You discuss on page two of your testimony, and I quote,
3 nor is parental consent likely to improve family life. A
4 young woman who can easily discuss her pregnancy with her
5 parents will so do and there are many like that. I find that
6 difficult to believe. I find my instinctive judgment is that
7 when a 13 or a 14 year old girl discovers she is pregnant, in
8 very few cases, will it be easy for her to discuss that
9 matter with parents. Do you really believe that in many cases
10 it will be easy for her?

11 A I will take easily back. None of this is easy.
12 You said this is a grave, moral problem.

13 Q Yes.

14 A And abortion is not a barrel of fun and it is not
15 something we recommend. None of us are pro-abortion.

16 Q I understand. That word became important because
17 I think in the real world that rarely will it be easy.

18 A I will accept that correction gladly. By my point
19 is, there are young woman who can do that.

20 Q Yes, I agree.

21 A They have been raised in an atmosphere of love
22 and care and they can go to their parents and say look look,
23 and the parent will respond. That is what I meant to say.

24 Q I agree with that. I think there are such young
25 women who have come from supported families who have the

1 courage to do that.

2 A But the law won't do that.

3 Q The other extreme is the less compassionate families
4 where, quote, they are likely to postpone such a heavy parental
5 confrontation or avoid it altogether.

6 I think that is true. But I think in the vast
7 majority of cases, whether you are talking about a 13 year old
8 girl who discovers she is pregnant, you were talking about,
9 we're dealing with a situation, where approaching her parents
10 is going to be extremely difficult requiring great courage.
11 Where, in many cases, if she can avoid doing so, for
12 perfectly understandable reasons, particularly in respect to
13 a 13 year old, she will not approach her parents. Even if they
14 are parents who would be very supportive and sympathetic
15 after the initial shock, if they knew of their daughter's
16 situation. I think that really describes what would happen
17 in a majority of cases. I think most parents would be shocked
18 and then supportive.

19 A Well, you just see that differently than I do.
20 I don't believe that.

21 Q You don't think most parents would be supportive?

22 A No. I'm thinking of the young woman, 13, 14, 16,
23 who comes to Planned Parenthood, sometimes they don't even
24 know they are pregnant. As a matter of fact, they are not
25 even sure how they became pregnant and they live in a family

1 that is not at all supportive. Maybe it is a one parent
2 family. They really have no one to turn to.

3 Q I've no doubt about that.

4 A And this law is not going to fix that up. And, as
5 a matter of fact, I think it is true as a mother, if she
6 should become a mother, she has custody of that child legally,
7 does she not? She is considered able to take care of that.
8 I don't know. You would know more about that than I. But she
9 becomes a different entity, I would think.

10 Q Well, she certainly has constitutional rights.

11 A That is right.

12 Q Bishop Mosley, what I am getting at is maybe three
13 things here. The situation where a child at 13 years of age
14 can approach her parents easily or comfortably and say that
15 she is facing difficulty and receive support from her parents.
16 I don't think there are many cases like that, but there are
17 some. And then on the opposite extreme, you have cases of
18 unsympathetic parents, such as the situations you have
19 described, where it would be almost tragic to require the
20 child, under that circumstance, to approach her parents who
21 inevitably will be unsympathetic.

22 I believe, however, that in a vast majority of
23 cases you are talking about a situation between two extremes.
24 Where it is very, very difficult for the child to approach
25 her parents even if they, after having been informed, would be

1 very sympathetic and supportive of their daughter.

2 A Well, your experience with human nature has been
3 different than mine. I don't think there are many in that
4 middle class.

5 Q That explains our difference of opinion on that.

6 A Yes.

7 Q The final point is, and I don't see maybe a
8 solution to this difficulty that doesn't trouble me. I have
9 difficulty with either the inclusion or exclusion of this kind
10 of provision of the law. This certainly is my final point.
11 If the parents are not legally obligated to be involved in
12 this decision making process, are you saying that the decision
13 really is left to the judgment ultimately of the 13 or 14 year
14 old girl who is facing this choice?

15 A Yes, and the physician and counselors, whoever.

16 Q You are not requiring those supporting personnel?

17 A Not by law.

18 Q As I would understand it, you hope the young girl,
19 we're not talking about a woman now?

20 A No, I would turn to sex education. I would be
21 very strongly in favor of much greater, I am in favor of much
22 greater, wider spread and money spent and so forth on sex
23 education. And that would then become part of her life-style.
24 That would become part of what she knew to do.

25 Q Well, I agree with you on that point.

1 A Not a law.

2 Q I am afraid I must disagree with you on the
3 question of whether or not there should be parental consent in
4 case of a minor. As difficult as it may be in some cases of
5 a child to seek her parents' consent, to leave her without
6 benefit of her parents' advice and judgment, when she is 13 or
7 14 years of age, facing a most difficult decision of her life,
8 would, I think, protect her individuality to do so at the
9 expense of mature judgment which might be better made with the
10 advice and support of her parents. I don't feel entirely
11 comfortable with that, but for that reason I come down on the
12 opposite side.

13 A I respect your position but I disagree with you.

14 REPRESENTATIVE MCHALE: Thank you, Mr. Chairman.

15 CHAIRMAN DEWEESE: You are welcome. Any other
16 members have questions?

17 (no response.)

18 CHAIRMAN DEWEESE: If not, thank you very much,
19 sir.

20 REVEREND MOSLEY: Thank you.

21 CHAIRMAN DEWEESE: One observation, the Chair,
22 without any specificity involved, there are not very many
23 enthusiastic efforts on behalf of the sponsor or co-sponsors
24 of these measures to support aggressive sex education efforts
25 within the school system. There is something that has

1 recently been brought forward and it has been alleged to be
2 quite provocative and not in keeping with the philosophy of
3 several Representatives. They have been nay sayers, but they
4 have not come up with a good alternative.

5 REVEREND MOSLEY: That is right.

6 CHAIRMAN DEWEESE: It is incumbent upon them to
7 come upon people who support this kind of legislation to
8 simultaneously put forward sex education efforts that will be
9 acceptable at a very, very early age.

10 REVEREND MOSLEY: Sure. If I may, sir.

11 CHAIRMAN DEWEESE: Go ahead.

12 REVEREND MOSLEY: They will know what you have
13 just said.

14 CHAIRMAN DEWEESE: Just quickly.

15 REVEREND MOSLEY: I know. I have been listening
16 all day.

17 CHAIRMAN DEWEESE: That is right. You deserve
18 another -- go ahead.

19 REVEREND MOSLEY: We are reminded, I am reminded
20 when you say that, that we have more teenage pregnancies in
21 this country than any of the developing countries. Twice as
22 much as Canada and England, three times as much as
23 France and about seven times as much as the
24 Scandinavian countries because we don't have sex education.
25 Because we pussyfoot around sex when it comes to educating.

1 Why are we showing raunchy stuff on television, radio and
2 music, all the time?

3 CHAIRMAN DEWEESE: Hallelujah. The next person
4 to testify before the Judiciary Committee, the Chair welcomes
5 Leslye Herrmann, the League of Women Voters of Pennsylvania,
6 and following Leslye, Mary Beliveau and following Mary, the
7 last two to testify simultaneously, will be Cathy Dratman and
8 Helen Geyer. So, we have three more. And the Chair is going
9 to request that we keep the testimony as crisp, I don't want
10 to use abridged, keep it as crisp as possible for obvious
11 reasons. Thank you very much for being flexible and for being
12 here so long. Welcome.

13 MS. HERRMANN: Thank you, Mr. Chairman. I want to
14 thank you also for being flexible on the agenda so that I
15 could speak now ahead of my turn.

16 I am Leslye Herrmann, Women's Issues and
17 Legislative Action Director for the League of Women Voters of
18 Pennsylvania. On behalf of the league, I would like to thank
19 Chairman DeWeese and the Judiciary Committee for conducting
20 this hearing today.

21 The League of Women Voters of Pennsylvania vigorously
22 opposes House Bill 1361 and 1362. The league believes that in
23 a pluralistic society public policy must affirm the
24 constitutional right of privacy of the individual to make
25 reproductive choices.

1 The issue that brings us together today goes
2 beyond the specific legislation before us. The issue is
3 whether the Commonwealth will deny equality to a majority of
4 its citizens.

5 Public opinion surveys continuously demonstrate
6 that the majority of Americans believe in the right of privacy
7 to make reproductive choices. Yet a vocal minority has a
8 stranglehold on legislators and office holders in this country
9 that range the full gamut from local and county officials to
10 the presidency of the United States. Aren't we concerned when
11 one issue can so divide a country that the very highest
12 offices are affected on a daily basis?

13 The Supreme Court's 1973 ruling in *Roe vs. Wade*
14 held that the constitutional right to privacy encompasses a
15 woman's right to make reproductive choices, including decisions
16 regarding termination of pregnancy. The court further ruled
17 that "the right of privacy, whether it be founded in the
18 Fourteenth Amendment's concept of personal liberty -- or -- in
19 the Ninth Amendment's reservation of rights to the people, is
20 broad enough to encompass a woman's decision whether or not to
21 terminate her pregnancy."

22 The decision in *Roe vs. Wade* was carefully and
23 clearly established around the nine month gestation period,
24 recognizing that the first trimester is the safest time for a
25 woman to elect to abort. Legislative attempts to delay that

1 action are denying women access to a constitutionally
2 guaranteed right.

3 The Commonwealth must guarantee women access to
4 that constitutionally guaranteed right. The Commonwealth must
5 further ensure that right by providing access to all the
6 information necessary to make an informed choice. When the
7 state impedes access to rights guaranteed by the constitution
8 it is a most dangerous situation.

9 In 1985 the U.S. Supreme Court in American College
10 of Obstetricians and Gynecologists vs. Thornburgh struck down
11 the Pennsylvania Abortion Control Act. We quote from the
12 majority opinion: "Few decisions are more personal and
13 intimate, more properly private or more basic to individual
14 dignity and autonomy than a woman's decision, with the
15 guidance of her physician and within the limits specified in
16 Roe vs. Wade, whether to end her pregnancy. A woman's right to
17 make that choice freely is fundamental. Any other result, in
18 our view, would protect inadequately a central part of the
19 sphere of liberty that our law guarantees equally to all."

20 Father Robert Drinan, of Georgetown University
21 Law School, wrote in The Morality of Abortion Law, that "civil
22 law of a religiously pluralistic and morally diverse nation
23 should not perpetuate a law based on moral concepts with which
24 a significant number of persons disagree. A law forbidding
25 abortion penalizes a part of the community while it reenforces

1 the morality of another group within the community. An
2 absence of a law on abortion would not penalize one group nor
3 would it harm those who are against abortion since it would
4 merely withdraw the criminal sanctions which are now attached
5 to their particular view of human existence - sanctions which
6 those who are against abortion presumably do not need.
7 Criminal law cannot operate effectively in this area and
8 abortion is therefore not an appropriate subject for criminal
9 law."

10 We want to take this opportunity to share with you
11 our deep concern with the all too frequent efforts of certain
12 members of the General Assembly to sponsor legislation that is
13 known to be unconstitutional. These efforts frequently result
14 in expensive court battles which must be paid for by the
15 taxpayers of the Commonwealth. The residents of Pennsylvania
16 should not be submitted to frivolous legislation and
17 litigation because of certain prejudices held by a few
18 elected officials.

19 There is a most troubling aspect to the desire to
20 legislate control over reproductive choices. The problem of
21 fathers failing to pay child support is rampant nationwide.
22 Pennsylvania does not mandate that health insurance for women
23 include pregnancy coverage not only for dependent spouses but
24 for other dependents as well. Pennsylvania is not willing to
25 provide prenatal and postnatal health services for mothers.

1 Pennsylvania is not willing to adequately fund such programs
2 as the Women, Infants and Children Supplemental Nutrition
3 Program. Nor is the Commonwealth willing to provide adequate
4 reproductive education information to our children. Yet there
5 are those who insist on controlling reproductive choices
6 without accepting the responsibility of providing the necessary
7 services to maintain a decent quality of life.

8 We urge the members of this Committee to reject
9 both House Bill 1361 and House Bill 1362. We urge you to
10 reject any further attempts to regulate access to the
11 constitutionally guaranteed rights of informed choice.

12 Thank you.

13 CHAIRMAN DEWEESE: Comments or questions?

14 BY CHAIRMAN DEWEESE:

15 Q I just have one.

16 A Yes, sir.

17 Q If we were to go up on the floor next week and vote
18 on Mr. Freind's proposal, for the first time in the history of
19 the Commonwealth, and I don't advocate this, but, for the
20 first time in the history of the Commonwealth, if we had a
21 secret ballot, your position would win. If we had a secret
22 ballot.

23 A If you had a secret ballot?

24 Q Yes. You talked in your prepared remarks about
25 the incessant clamorings of certain people within the Assembly

1 relative to this issue. Even those who agree with him.
2 Mr. Freind, on the issue are by and large antagonized by the
3 perpetual, almost every two or three months of the 24 month
4 program, perpetual inundation of amendments, threats,
5 debates and so forth relative to this issue. So, taking into
6 consideration the fact that he does have certain spiritual
7 allies on this subject, I think that they -- I would aver
8 unequivocally the majority of the men and women that I serve
9 with on both sides of the aisle, would, if they had a secret
10 ballot, would agree with the League of Women Voters. Thank
11 you very much.

12 A Thank you, sir. I appreciate it.

13 CHAIRMAN DEWEESE: We have two more sets of
14 witnesses, Mary Beliveau, Letislative Director, Pennsylvania
15 Pro-Life Federation and Mary may have a person with her, who
16 is very welcome to come to the table in case members have
17 questions. I think Mr. Freind said there was a lady with Miss
18 Beliveau. And then the final testimony will be given by Mrs.
19 Dratman and Miss Geyer and that will conclude our hearing
20 today.

21 MS. BELIVEAU: Mr. Chairman, Dr. Charles Neff,
22 who is a psychiatrist, who presented his written testimony,
23 would be available at the end of the hearing for a few minutes
24 for comments. I think it would really benefit the Chairman
25 and the Committee to hear from him since he is an expert and

1 would be available to you.

2 CHAIRMAN DEWEESE: What I will do, in the interest
3 of fairness and expedition, I will ask him to sit there with
4 you. I am not going to ask him to speak. I have been as
5 magnanimous as I plan on being. I will ask him to be there
6 with you and then if members have questions, I would consider
7 that appropriate.

8 MS. BELIVEAU: That is fine.

9 CHAIRMAN DEWEESE: Believe me, if it wasn't 4:15
10 I would say fine. And if we had a full house, I would also
11 say fine. I also say we will give the Doctor a chance if there
12 are subsequent events of this nature. But in the meantime,
13 welcome to you. And for the record, what is the name of the
14 other lady?

15 MS. BELIVEAU: Molly Kelly. She represents
16 parents in the state of Pennsylvania. She is a renowned
17 speaker that speaks to thousands of teens all over the state
18 of Pennsylvania and other parts of the country and has
19 firsthand knowledge about dealing with teenagers. She will
20 be addressing the parental consent part of the bill.

21 CHAIRMAN DEWEESE: Fine. Would you please
22 commence?

23 MS. BELIVEAU: Yes. Mr. Chairman, and members of
24 the Committee, my name is Mary Beliveau. I am the Legislative
25 Coordinator for the Pennsylvania Pro-Life Federation. I would like to

1 thank you for this opportunity to testify in support of the
2 "Abortion Control Act" and "Wrongful Birth-Wrongful Life
3 legislation.

4 The Pennsylvania Pro-Life Federation is the state's
5 largest prolife grass roots organization which serves as the
6 coordinating body for over 50 local chapters. We are
7 concerned about the legal protection of the lives of all innocent
8 human beings including unborn children, infants born with
9 handicaps, and the vulnerable elderly. We believe that our
10 society should work to help provide positive support for women
11 and others faced with problems in their lives. The taking of
12 human life should never be a proper solution to solve
13 difficulties in a civilized society.

14 Many people are still not aware of the extent of
15 the 1973 Supreme Court decision known as Roe vs. Wade. The
16 U.S. Senate Judiciary Committee has observed concerning this
17 decision that "...no significant legal barriers of any kind
18 whatsoever exist today in the United States for a woman to
19 obtain an abortion for any reason during any state of her
20 pregnancy." (Report, Committee on Judiciary, U.S. Senate, on
21 Senate Joint Resolution 3, 98th Congress, 98-149, June 7,
22 1983, P.6).

23 This Roe vs. Wade decision legalizing abortion on
24 demand opened the door to 4000 abortions performed a day, one
25 and a half million abortions a year. The numbers are not the

1 only legacy of the Supreme Court decision. The rights of
2 entire families - mothers, fathers and children are being
3 violated as well and need to be addressed by this legislation.

4 In order to protect as much as possible, under the
5 guidelines of the Supreme Court decision, those who are drawn
6 into the abortion process; legislation is needed to regulate
7 the procedure itself.

8 The unborn child is not the only victim in an
9 abortion. As medical science advances and the science of
10 fetology has become firmly established, we have become more
11 knowledgeable about the high degree of early development of the
12 baby in the womb. Women should no longer be kept in the dark
13 about the true facts surrounding an abortion. They can no
14 longer be told that they are carrying just a blob of tissue
15 when they are pregnant because they will eventually be exposed
16 to the true facts. How tragic it is when a woman, after she has
17 had an abortion at, for example, 12 weeks gestation, is faced
18 with the fact that at 18 days the baby's heart begins to beat
19 and by 21 days the heart is pumping, through a closed
20 circulatory system, blood whose type is different from that of
21 the mother. (J. M. Tanner, G. R. Taylor, and the Editors of
22 Time - Life Books, Growth, New York: Life Science Library,
23 1965, p.64). The fact that "...by 11 to 12 weeks (3 months),
24 the baby is breathing fluid steadily and that by 11 weeks all
25 his body systems are working" was printed in Life Magazine.

1 ("Life Before Birth," Life Magazine, April 30, 1965, p.13).
2 The British Medical Journal reported, "He can swallow at 11
3 weeks." (Valmon and Pearson, British Medical Journal, p.7).

4 After a woman has had an abortion she can be faced
5 with information about fetology on television, in magazines, a
6 biology class or in any medical book in the public library.

7 What do the abortion providers gain from keeping
8 a woman in the dark about the availability of information on
9 fetal development, possible complications, or alternatives that
10 are available to her? What do they have to fear by ensuring
11 that accurate information is provided to the women in our
12 state? There is no greater exploitation of women than now
13 being employed by the abortion industry in the area of consent.
14 We must ask ourselves if we are not in fact doing women a grave
15 disservice by not assuring that they are thoroughly informed
16 about the options available to them so that they, at the very
17 least, will be able to give informed consent to perhaps the
18 most monumental decision of their lives.

19 The abortion decision reaches right into the core
20 of our families as well. At the present time, in the absence
21 of legislation, abortion providers are building a wall between
22 the minor unemancipated girl and her parents. They are
23 encouraging our young women not to confide in their parents
24 and to keep their contacts with the clinics a secret. At a
25 time when a young teenage girl discovers that her world is

1 turned upside down, who else could better extend the love and
2 support to her than the people who nurtured and raised her?
3 Are we in fact encouraging the abortion providers to drive a
4 wedge between parents and their children by not enacting
5 protective legislation? When those of you who have teenage
6 daughters stop and reflect for a minute, you will realize that
7 the same young girl who cannot have her ears pierced, go on a
8 class trip or get an aspirin from the school nurse without
9 consent, can enter an abortion clinic and undergo a surgical
10 procedure which could leave her emotionally or physically
11 scarred for the rest of her life without your consent or even
12 your knowledge.

13 Another wedge in the family structure is brought
14 about by preventing the father from being notified. Many times
15 the father of the child could provide another means of support
16 for the mother. At the very least, he should receive
17 notification and be given the opportunity to act responsibly.

18 Besides the regulation of the abortion procedure,
19 regulation of the abortion industry is also necessary.
20 Abortions, at the present time, are treated differently than
21 any other type of surgery (see chart, p.3*). Proper reporting
22 on the complications of abortion is lacking, yet this data is
23 necessary to determine consequences on the health of the
24 women themselves.

25 Regulations of abuses by the health care community,

1 protection of the rights of conscience, and limitation on
 2 public financial involvement in abortion are all necessarily
 3 addressed in this legislation and worthy of support.
 4

5 DIFFERENCES - ABORTIONS AND

6 OTHER TYPES OF SURGERY*

7	ABORTION	ETHICAL SURGERY
8 Payment	Cash at door	Pay later
9 Pathologic exam	Seldom	Routine
10 Advertising	Routine	Rare
11 Counseling	Usually a farce	Done if needed
12 Second opinion	Never	If needed
13 Informed consent	Legally not required	Always
14 Kickbacks	Sometimes	Never
15 Record Keeping	Sketchy	In detail
16 Pre-op. exam	Often not done until she is on the table	Mandatory and detailed
17 Follow-up exam	None	Mandatory and detailed
18		
19 Correct Diagnosis	10-15% done on non-pregnant women	Surgeon is disciplined if he does many wrong operations
20		
21 Husband's consent	Not needed	Expected
22 Husband informed	Not necessary	Always
23 Consent of parents of minor	Not needed	Legally required
24 Parents informed	Seldom	Legally required
25		

1 DIFFERENCES - ABORTIONS AND

2 OTHER TYPES OF SURGERY*

3	ABORTION	ETHICAL SURGERY	
4	Tissue disposal	In garbage	In humane and dignified manner
5	Burial	In garbage	Yes, if large enough
6	Surgical training	Not required	Absolutely required
7	Non-medical reasons	99%	About 1%

8 *"Abortion - Questions and Answers": Willke, Dr. and Mrs. J.C.
 9 Hayes Publishing Co.
 10 Cincinnati, Ohio;p.79.
 11

12 As we look to the future, how will history record
 13 this era? In 1857, the United States Supreme Court made a
 14 grievous error when it ruled that blacks were not persons
 15 under the constitution and thus had no rights. Today in the
 16 United States we see again the rights of a whole class of
 17 human beings, unborn children, being systematically denied
 18 their most basic right: that of life itself. Let us today
 19 not compound this tragedy by denying fathers proper
 20 notification, withholding from women the right to accurate
 21 information, and allowing the abortion industry to drive a
 22 wedge between parents and their children.

23 The passage of House Bill 1361 will assure that
 24 the Pennsylvania legislature is acting responsibly by doing
 25 everything in its power to regulate the abortion industry in

1 this state while at the same time doing all that is possible
2 under the Supreme Court guidelines to protect the rights of
3 parents, fathers, and the right of women to be fully informed.
4 For these reasons, urge your support of House Bill 1361.

5 House Bill 1362 "Wrongful Birth-Wrongful Life"

6 Legislation, it seems unbelievable that in a day
7 when rights of the handicapped are being advanced in this
8 nation that, if we have these proliferations of these wrongful
9 birth-wrongful life lawsuits, the rights of the handicapped,
10 it will go backward instead of forward.

11 The Pennsylvania Pro-Life Federation believes that
12 when society recognizes that a family member has a cause of
13 action for wrongful birth or wrongful life against another
14 family member, a physician, a hospital or anyone else, it has
15 devalued human life. To say that nonexistence is better than
16 life is really to say that life is worthless. That is, it is
17 better not to be born than to be born imperfect.

18 We must not look at an individual child as if he
19 were a defective part manufactured along an assembly line, to
20 be discarded at will, which we often do in our materialistic
21 society today with our gadgets that don't work anymore. We
22 need to view him as an integral part of the human family. He
23 has a role to play, a place to fill just like you and I.

24 In their zeal to protect abortion rights,
25 opponents of this bill must also recognize the right of a

1 woman not to have an abortion as well as the rights of medical
 2 personnel and institutions not to participate in the procedure.
 3 House Bill 1362 would allow freedom of conscience
 4 for all involved in the abortion decision. It would ensure
 5 "freedom of choise" (as abortion proponents would put it) and
 6 not promote abortion on demand for the handicapped. It would
 7 give parents the freedom to have a child without the fear of
 8 liability and freedom of conscience for the doctor who might
 9 feel obligated to perform an abortion rather than face the
 10 possibility of liability associated with the birth of a
 11 handicapped child.

12 We ask you for your support of House Bill 1362 and
 13 thank you once again for your consideration of this necessary
 14 legislation. Thank you once again for your consideration. I
 15 would like to turn it over, again, to Molly Kelly. Mr.
 16 Chairman, if you will, she can address the area of parental
 17 consent.

18 CHAIRMAN DEWEESE: You have been so good in your
 19 summary and your time, that is no problem.

20 MS. BELIVEAU: Thank you.

21 CHAIRMAN DEWEESE: We are trying to expand it now
 22 to about 15 minutes or so. You only used seven.

23 MS. BELIVEAU: Thank you very much. I tried to
 24 cut it in half.

25 CHAIRMAN DEWEESE: You did a good job.

1 MS. KELLY: Thank you very much. I have copies
2 here and on the top it says good morning. We'll bag that.
3 I am Molly Kelly, Executive Director of Pennsylvanians for
4 Human Life and I am very involved with teenagers, both my own
5 and other peoples. If I may insert here, I am the mother of
6 eight children, four of whom are still teens.

7 In my capacity as a speaker for P.H.L., I address
8 approximately 30,000 teens each year, throughout the United
9 States and Canada, on the issues of abortion and chastity, two
10 very interrelated issues, as I see them, abortion being the
11 problem and chastity/sexual self-control, the solution. I would
12 like to state here, for the record, that I am most impressed
13 with teenagers as I travel through the country. I find them
14 sensitive, caring, concerned human beings, very nonjudgmental
15 and very willing to get involved in good endeavors. I say this
16 because I am sick and tired of the way this society continues
17 to put teenagers down. We have too many adults who quote
18 statistics, telling us that there are 1.2 million pregnant
19 teens; 420,000 teen abortions; venereal disease among
20 teens at epidemic proportions; and teen premarital sex a
21 "given". Then these very same people decide that the
22 solution to all of these teen problems is to keep parents out
23 of teens lives when it comes to dispensing contraception to
24 teens, or performing abortions on teens. This is an
25 abomination, and I not only disagree with it, I am horrified.
I am here today to make an impassioned plea for parental

1 consent with regards to performing abortions on minor pregnant
2 teens.

3 Today in Harrisburg these hearings are being
4 conducted so that House Bills 1361 and 1362 can be aired,
5 allowing people on both sides of the abortion decision to vent
6 their views, and this is one of the reasons our country is so
7 great. We have the freedom and the privilege to speak out and
8 to help shape our legal system. But the result of these
9 hearings as well as actions taken by our legislators, and our
10 Supreme Court, House Bills 1361 and 1362 will be enacted into
11 law, or shot down. My main focus this morning will be on the
12 parental consent provision of House Bill 1361, although I am
13 in favor of both bills passing into law in their entirety.
14 My brief remarks on House Bill 1362 would be to simply state
15 that our current laws permitting wrongful birth and wrongful
16 life lawsuits to be lodged against physicians belongs in the
17 science fiction category, and that the passage of House Bill
18 1362 would serve to protect the value of handicapped children
19 as well as the integrity of physicians.

20 My thrust today is to address the parental consent
21 provision because that is where my expertise and interests lie.
22 If House Bill 1361 is allowed to go into effect, then parents
23 will be encouraged to communicate with and enter into their
24 minor daughter's pregnancy problem and abortion decision. If
25 House Bill 1361 is shot down, or left in limbo where it has

1 resided for months on end, due to an exaggerated technicality,
2 then parents will continue to be kept in the dark as far as the
3 abortion decision of their minor pregnant daughter, and
4 pregnant teens will continue to make decisions that can affect
5 them for the rest of their lives. Some of you may be saying
6 to yourselves that teens can involve their parents if they
7 want to and so, shooting down parental consent would only apply
8 to those teens who were afraid to tell their parents. If we
9 truly understand teens, then we should also understand that
10 most of the teens who become pregnant out of wedlock, share
11 three common emotions; fear, panic and confusion, and the
12 thing they fear the most is telling their parents that they
13 are pregnant. You will hear teens say such lines as, "My dad
14 will kill me", or "I'll never be allowed out of the house
15 again". But really what they are saying is, "My parents are
16 going to be so disappointed in me", or "I really let them
17 down, they're going to hate me". You see, most teens love
18 their parents and want to please them and that's why they don't
19 want to tell them they are pregnant. On the other hand, most
20 parents love their teens and, after the initial reaction of
21 anger, shock and fear at hearing that their daughter is
22 pregnant, most parents can not only handle the situation, but
23 can also provide the love and support needed to help her
24 through a very trying time in her life.

25 I have run off and included in my testimony a

1 copy of the permission slip that my daughter, Marykate Kelly,
2 age 17, a senior in Philadelphia, brought home among all the
3 many other things brought home to me the first week of school.
4 It is in the testimony, if you would refer to it. It says,
5 the Pennsylvania Department of Health has issued new
6 guidelines concerning the dispensing of medication in school.

7 In order to dispense the following nonprescription
8 drugs, we must have a signed permission slip from a parent or
9 guardian.

10 I had to check off whether they would be allowed to
11 give Marykate Tylenol or aspirin for headache or cramps, a
12 gelusil tablet for an upset stomach, Robitussin for cough;
13 my signature and the date.

14 My question would be, why is it that a school
15 cannot give Marykate an aspirin, gelusil tablet or dose of
16 Robitussin, all nonprescription drugs, and yet Marykate could
17 go to a local abortion clinic and have an abortion performed
18 on her body and I don't have to ever know about it. My
19 husband was a physician and was keenly aware of the need to get
20 parental consent when treating minors. My husband was killed
21 in a sledding accident 12 years ago and I have been raising my
22 children by myself ever since. It is difficult enough being a
23 one parent family but it is even more difficult when I am
24 removed from important decisions involving my childrens'
25 health and welfare. If Marykate were to have an abortion, she

1 would be given some form of anesthesia, either local or general,
2 and would have some kind of an instrument inserted into her
3 womb, probably a curette or suction tube, that would remove by
4 a scraping or vacuum like process, the unborn child growing
5 inside of her. This procedure would cause some cramps, pain,
6 bleeding, weakness, nausea and perhaps vomiting in Marykate,
7 who, if I do not know about it, is probably there alone or
8 with a friend her own age. And what of the aftermath? All of
9 us here today, after hearing this testimony, now know of the
10 term "post-abortion syndrome". This new term was coined by
11 psychiatrists and health professionals who, after seeing and
12 professionally treating many women who were found to be
13 emotionally scarred by their abortion experience, realized
14 that the trauma of an abortion will surface at some point in
15 a woman's life, and it must be faced, dealt with and treated
16 if she is to ever be healed. The physical effects of an
17 abortion are also something that must be addressed. The D and
18 C abortion can cause sterility when the placenta is cut out,
19 and the suction can cause premature delivery later on.
20 Premature delivery can then cause problems both mentally and
21 physically in the child. These are things I believe women
22 should know, teenagers should know.

23 Last week I had a special "rap day" with 70
24 teenagers from a high school in West Chester. I drove there,
25 and to make it a special day they were allowed to leave

1 campus and we had a whole day of simply talking, nine to two.
2 In order to go to this special day, they had to get a
3 permission slip and it had to be signed that they could get
4 on the bus. Two of the girls forgot their permission slip,
5 or lost it, and were not permitted to attend the day. They
6 were not allowed to get on the bus. They did not go to this
7 special day sponsored by the school. These two same girls
8 could go and have an abortion and their parents don't have to
9 know anything about it, but they are not permitted on the bus.

10 Another story, my son, Dan, age 13, last year went
11 to camp in Michigan. The day after he arrived, he came down
12 with, whatever the correct words are, appendicitis. I was
13 called on the phone and said you have to get out here, you
14 have to get the first plane. A half hour later I received a
15 call and said, you are not going to make it. His appendix
16 are going to burst. We are setting up a conference call. A
17 surgeon told me the medical risks and what was to be expected
18 in the aftermath. The hospital administration staff read to
19 me the parental consent form and the secretary taped my voice
20 over the phone so on record they had my permission to remove
21 Daniel's sick appendix. They would not touch him until I gave
22 that permission.

23 Kevin, age 16, plays soccer at high school, but
24 before he was even allowed to go on the field, I had to give
25 permission to say I knew he was playing soccer and I would let

1 him do it. My last personal story, this summer I was appointed
2 to the Grant Review Board within the Department of Health and
3 Human Services in Washington, D.C. and in that capacity I was
4 asked to review grants for Title XX funds that would promote
5 abstinence for the prevention of teen pregnancy. None of the
6 applicants were allowed to be even considered for a grant if
7 the promotion and teaching of abstinence did not involve
8 parents. If the entire application did not say parents, did
9 not bring in the parents, then the application was thrown in
10 the dead file. My problem with that is, I guess I fail to
11 understand how parents must be involved in promoting abstinence,
12 which I do not see as a dangerous thing with harmful side
13 effects, and yet are completely taken out of the abortion
14 decision. Abstinence is a nonthreatening, nondangerous
15 concept. Abortion is a surgical procedure involving dangerous
16 risks and side effects.

17 Ladies and gentlemen, I firmly believe that not
18 requiring parental consent for minors to obtain abortions, is
19 the biggest scam in history. We in Pennsylvania have been
20 subjected to Abscam, and the scam involving judges taking
21 bribes, but none of these scams come close to the lack of
22 parental consent in an abortion scam. I have attached, for
23 your information and easy availability, the Pennsylvania
24 Department of Health 1986 abortion statistics, and if you
25 refer to them you can see that 26.3 percent of the 51,666

1 abortions are performed on teenagers. If you go further, the
2 next page, it will show you the breakdown of three 11 year
3 olds, four 12 year olds, all the way down, how many we are
4 talking about. Think of these teens, and think of the
5 complications mentioned in my testimony, and then ask yourself
6 these questions. Who is there when the teenager wakes up at
7 night crying because of her abortion? Who can she tell that
8 she is still bleeding or that she feels weak and sick? Her
9 parents don't even know she was pregnant. How could she tell
10 them? Are the abortion providers there to help pick up the
11 pieces of her life or doesn't that concern them? I am sure
12 that the abortion providers testifying today will tell you
13 that blocking parental consent will protect the rights of
14 minors, but I will tell you, and with a great deal of certainty,
15 that blocking parental consent only serves to protect the
16 abortion industry and its enormous financial investment.

17 It is a fact that in those states that have enacted
18 a parental consent or notification law, teen abortions, teen
19 births and teen pregnancies have all gone down. In Minnesota,
20 which has now had their parental notification enjoined, if
21 you will look at the statistics from 1980 to 1984, when
22 parental notification was in effect, the number of teen
23 abortions dropped 40 percent, teen births, 18 percent, and
24 teen pregnancies, 30 percent. Statistics bear out that if a
25 parent does not have to give consent or be notified of a teen's

1 decision to abort, then the teen does not have to be as
2 concerned about getting pregnant. After all, there is always
3 abortion and no one will know except the teen herself.

4 Pennsylvania House Bill 1361 should be allowed to
5 become law because in its enactment it would be protecting
6 several important interests, namely: the protection of the
7 minor child from her own improvident decision (can we expect
8 an adult decision from a child); the protection of the family
9 as a viable unit in the society (something that America has
10 always taken great pride in, the family); the protection of
11 parental rights of authority over their minor children (an
12 everyday occurrence). If a teenager is on drugs, suspected of
13 cheating, stealing, acting funny in school, the parents are
14 brought in. But as far as abortion, the parents are kept out.
15 And finally, protection of the minor's health (enabling parents
16 to provide essential medical information to the aborting
17 physician and making sure of adequate follow up medical care
18 as well as perhaps being able to provide the teen with the
19 support necessary to perhaps eliminate the need for abortion).

20 House Bill 1361 has the necessary judicial bypass
21 that has permitted other states to enact parental consent and
22 notification laws. It does not make sense to hold this
23 parental consent provision in limbo any longer. I plead with
24 you to let it out and let it pass into law. Our teens'
25 health and welfare demand it. Thank you very much.

1 CHAIRMAN DEWEESE: Questions, comments?

2 REPRESENTATIVE JOSEPHS: Mr. Chairman, if I might,
3 because I want to catch a train, may I ask a question?

4 CHAIRMAN DEWEESE: Certainly.

5 BY REPRESENTATIVE JOSEPHS (To Ms. Beliveau):

6 Q For the record, Miss Beliveau, page three, where
7 we see the schematic purportedly comparing abortion to other
8 types of surgeries?

9 A Yes.

10 Q I have only a comment to make. This is lifted
11 from the attribution at the bottom shows that this is taken
12 from some materials by Dr. and Mrs. Willke. My only comment
13 is in terms of how authentic this is, how believable this is.
14 That I have seen Dr. Willke in training sessions, on film and
15 in person, talked to anti-abortionist activists about how they
16 ought to approach the public. I remember him very clearly
17 saying you always have to interpose the two words, baby and
18 kill, baby and kill, baby and kill, and that's how you get
19 the frenzied reaction that he is looking for. I think that
20 this chart is in the same type of rhetoric, and for the record,
21 I think it is useless, not true and inaccurate. Thank you,
22 Mr. Chairman.

23 A I think you will find it accurate, Representative
24 Josephs. I think if you look at the --

25 REPRESENTATIVE JOSEPHS: There is not a question.

1 CHAIRMAN DEWLESE: She is able to respond, Miss
2 Josephs. She is very much within her realm to respond.

3 MS. BELIVEAU: I felt it would be very helpful to
4 the Committee to include the chart to show the difference on
5 how abortion is treated differently than other surgical
6 procedures. And this would show the need for the regulation
7 of the abortion industry in this state. That is the reason
8 the chart is listed, Mr. Chairman.

9 CHAIRMAN DEWLESE: Okay, other comments or
10 questions?

11 REPRESENTATIVE MCHALE: Mr. Chairman.

12 CHAIRMAN DEWLESE: Mr. McChale, you are recognized.

13 REPRESENTATIVE MCHALE: Thank you, Mr. Chairman.

14 BY REPRESENTATIVE MCHALE (To Ms. Beliveau):

15 QAs you may have been able to tell, I hope you have
16 been able to tell, these hearings have been extremely helpful
17 to me as I have tried to clarify often important competing
18 values as we examine this legislation. I have been in public
19 life in one capacity or another for about seven or eight years
20 discussing this issue and trying to clarify my own thoughts.
21 And I never found it to be easy. I only found it to be simple
22 for the ideologs on one side of the issue or the other. I
23 believe in most circumstances abortion is morally indefensible.
24 And I support your position, although I have not read it, I
25 support your position on the issue of parental consent. I,

1 too, believe that abstinence is important. It is a lesson to
2 be taught to our children.

3 But if I may paraphrase Surgeon General Koop,
4 barring the abstinence of this issue, I find it an accurate,
5 comprehensive educational program to be a major step we can
6 take to avoid unintended pregnancies. I support contraception
7 and I support public education on the issue of contraception.
8 Specifically because I believe it decreases rather than in-
9 creases the number of abortions.

10 I read your literature very carefully, I have
11 been on your mailing list now for years. I read every issue
12 of your magazine, every paper actually, that comes across my
13 desk. As I have read your articles over the years, you've
14 taken a position opposing contraceptive education. I see you
15 shaking your head. I'm pleased to see that, because I think you
16 will educate me in a few minutes. What's your position of your
17 organization regarding public education of minors, through
18 the public school system, on the issue of contraception?

19 A Mr. McHale, the Pennsylvania Pro-Life Federation
20 does not have a position. It does not get involved in the
21 issue of contraception because many of our members differ on
22 that issue. Our organization gets involved only when a child
23 has been conceived and the advocacy of the protection of
24 human life, but we have no stand whatsoever on the contracept-
25 ive issue. And I want to make that veyr clear.

1 Molly Kelly is speaking on behalf of parents in
2 the state. She speaks to teens and she is wearing a different
3 hat when she speaks on these different things.

4 Q I see. Do you have --

5 A She is speaking on behalf --

6 Q I'm sorry, go ahead.

7 A There are nine regions, members of the Pennsylvania
8 Pro-Life Federation of 50 chapters. Yes, would local
9 affiliates --

10 Q I may be mistaken, but I am on numerous letters,
11 on numerous mailing lists on this issue. And perhaps it is
12 one of your local affiliates. Perhaps it is another
13 organization.

14 A Are you from Allentown?

15 Q From Bethlehem.

16 A Well, I am not really sure. I am not exactly sure
17 what you are dealing with or what you are seeing in the
18 newsletters. But the official statement is, we do not take a
19 stand on contraceptive issues.

20 Q I will go back through my files because I think
21 maybe your local chapter has often run articles, not on the
22 issue of abortion, but on the issue of contraception opposing
23 public education on the issue of contraception.

24 MS. KELLY: I don't think that that is -- I know I
25 go out and speak often. I don't oppose contraception. I am

1 for factual information. What I find interesting, that
2 chastity isn't an option. Abstinence isn't being taught.

3 BY REPRESENTATIVE MCHALE (To Ms. Kelly):

4 Q I am aware of that.

5 A But I am for, I have a copy of the Pennsylvania
6 Health Curriculum, the sex ed. Sex education, all of our young
7 people should understand sexuality. The problem is very often
8 it is sex training, how to do it and not get caught. We have
9 a Pennsylvania Parents Commission that formed that had a press
10 conference Tuesday in Harrisburg saying that parents want
11 input into the guidelines because of what they have seen,
12 especially with AIDS curriculum coming in.

13 Q Sure.

14 A And what they were saying was, what is there now is
15 not acceptable. To tell kindergarten through third grade how to
16 do sexual intercourse^{is} / messing around with the sexual latency
17 period. So, I think it is important that, for lack of a better
18 word, Carrie Nations, going against sex education. I have
19 every right and you have every right to go out and also
20 promote abstinence and chastity as a viable solution.

21 Q I agree with you. As you have articulated, both
22 of you articulated your position in the last five minutes, I
23 agree with you. The point I would make is, there are many,
24 many different segments of the prolife movement that
25 vigorously disagree with you on this issue. There are many

1 segments, and I will go back to my files to see exactly what
2 they are, and they may not be affiliated with you in any way.
3 There are some very vigorous legitimately vocal segments of
4 the prolife community that oppose any form of public education
5 on the issue of contraception.

6 A Except that we are leaders.

7 Q I'm sorry?

8 A Except that we are leaders. That is why we are
9 here. And there are segments of pro abortion groups or say
10 pro choice. In other words, the ones that we deal with are
11 dealing with the abortion issue and contraception as far as
12 getting the facts out and abstinence is an option.

13 Q I agree with your position completely. And
14 frankly, I am very encouraged to hear it this afternoon. You
15 have at least, in terms of leadership of your organization,
16 addressed the major concern that I have had and that I believe
17 factually, accurately, maturely presented information
18 regarding contraception will decrease the number of abortions.
19 I feel that is important.

20 A I think abstinence will.

21 Q As I started out, that is my first premise. I
22 agree with you, but beyond that, I think supplementary
23 accurate education is important.

24 The next point, if I may raise it. I have concern
25 with regard to paternal notice. I see that one of the

1 exceptions under that provision of the bill is a verification
2 by the woman that she does not need the identity of the father.
3 If that is the case, if that provision may be circumvented by
4 an untruthful statement by the woman, that she doesn't know
5 the identity of the father, what is the point of having notice
6 when it can be so easily circumvented? If I may give you an
7 example. When I first started practicing law ten years ago,
8 we only had fault divorce. In order to get a divorce, there
9 had to be grounds established, particularly the grounds that
10 would be established would be indignities to the person. It
11 almost became a charade in which party seeking a divorce would
12 flip a coin to figure out who the bad person would be and who
13 the good person would be. And the good person would attend the
14 hearings, in the absence of the bad person, I would suppose,
15 and a series of allegations would be raised establishing
16 indignities to the person. The charade having been completed,
17 the divorce would be granted. The law was utterly
18 impractical in terms of its operation. It is the same
19 kind of impracticality I see as a potential here and that what
20 is sought is paternal notification, but I am afraid that it
21 may very well become a standard practice to untruthfully
22 assert that the identity of the father is unknown.

23 A Right now the father has no say whatsoever. A
24 woman can have an abortion and the husband, the father, can
25 do nothing about it.

1 Q Well, I don't see this provision in the law
2 changing that when it can be so easily circumvented by the
3 father can't be found or can't be identified?

4 A Well, I think it is finally being addressed.
5 Right now it is not addressed at all. I think law does
6 change things. I think there is always going to be loopholes.
7 I think this is just always the way it has been. I think
8 the judicial bypass will be a loophole as far as parental
9 consent. But there will be many, many more kids that will
10 turn to their parents and spouses because men do care. I
11 happen to believe they do care. They have been taken out of
12 the picture and they don't belong out.

13 Q Mrs. Kelly, I think that is an adequate answer.
14 I would suspect you are right. That having the requirement
15 will result in some notifications that otherwise would not
16 take place. I also think my concern is accurate as well in
17 that many individuals simply untruthfully will sign a
18 verification that the father is unknown or that his
19 whereabouts cannot be determined. Then the next step
20 on that process, this is where I really think we run into
21 some problems, is what happens if the woman says untruthfully
22 the identity of the father is unknown. How do you challenge
23 that? How would the interested party, whoever that would be,
24 challenge that without invading constitutionally
25 protected areas of privacy when the mother says I cannot

1 identify the father and someone else believes that is
2 untruthful? How can that be challenged without degrading her
3 privacy?

4 MS. BELIVEAU: Certainly involved in the bill for
5 verification, assuming the truthfulness of the woman as far as
6 verification, that is why it is in the law. The assumption
7 is women are not going to lie. The assumption is they are
8 going to tell the truth.

9 REPRESENTATIVE MCHALE: So long as you start with
10 that premise no one can disagree with your argument. But I
11 think in the real world there are issues that go beyond that
12 assumption of truthfulness in answering that question.

13 MS. KELLY: One thing, we have a strong alternative
14 movement. Groups that help girls through problem pregnancy or
15 else we are not credible. But in my Philadelphia area there
16 is 37 groups that network. One of our obligations then would
17 be to counsel the girls, the women, as far as the importance
18 of being truthful. That would be something on us that we
19 should do. We would have to take on that onus.

20 REPRESENTATIVE MCHALE: The final area I would
21 raise would be this. I don't know if you were present during
22 the testimony of earlier witnesses. I have strong concerns
23 about provisions that relate to the availability of legal
24 services. The amendment that is in this bill 1361 is by
25 everyone's definition abortion neutral. Whether a person seeks

1 to either prevent or procure an abortion, legal services would
2 not be available to that citizen. I raise the question of
3 legislative strategy, and I think you are the appropriate
4 folks on behalf of your side of the issue to comment on this.
5 I felt very strongly last year that the General Assembly should
6 provide money to young indigent women who courageously choose
7 to go forward with their pregnancy. I am appalled that any
8 abortion would ever take place as a result of an economic
9 calculation. That a woman in desperation would conclude she
10 could not support herself or her child and therefore an
11 abortion would be an acceptable alternative. I am very
12 disturbed by that. So, I very much wanted to provide money
13 in the last session to assist those young women who wanted to
14 go forward with their pregnancies, bear the child, support the
15 child.

16 An amendment similar to the one that is in 1361
17 was attached to that bill in the last session and I felt
18 compelled on constitutional grounds to vote against the funding
19 at the one million dollar level. I increased it to two
20 million dollars and eliminated the constitutional provision
21 that I thought was unacceptable. But for reasons of
22 legislative strategy, the other side prevailed. We see again
23 here in 1361, which I understand we will see again next week
24 when IOLTA comes up for consideration. I have a grave concern
25 that in an attempt to prohibit abortion counseling,

1 compassionate programs upon which we would agree, are being
2 stymied, such as increased funding for poor women who have
3 children such as programs such as legal services for low income
4 families.

5 I would like your comments as to why that is your
6 legislative strategy, and I respectfully suggest to you rather
7 than defeat something like IOLTA on this issue, why not litigate
8 the matter on a bill that you know is going to pass. I don't
9 think you will have any difficulty finding an appropriate
10 legislative test case. And allow such matters for funding for
11 women who go forward with their pregnancies, funding for IOLTA,
12 not to be prohibited. Long speech, forgive me.

13 MS. BELIVEAU: I believe the IOLTA issue is a
14 separate issue and is not being addressed today, number one.
15 Number two --

16 CHAIRMAN DEWEESE: They are closely related.

17 MS. BELIVEAU: Yes.

18 REPRESENTATIVE MCHALE: I have seen it three times.
19 It really concerns me.

20 MS. BELIVEAU: Right. You are talking about the
21 other piece of legislation they are going to be making
22 abortion neutral. But concerning this, from what I understand,
23 the monies would be available for a woman for bypass. That
24 this section only applies to state monies not being used for
25 litigation against, for instance, if the state bill were

1 passed that state monies would be used to litigate by pro
2 abortion groups, that same piece of legislation that would be
3 passed by the state legislature. I am not an attorney and I
4 would really like to defer that. I believe legal counsel this
5 morning did answer that. I would like to defer you to his
6 statement.

7 REPRESENTATIVE MCHALE: Well, obviously, I don't
8 want to belabor that. I have seen now, on a number of
9 occasions, and I anticipate I will see it in the near future,
10 some very compassionate programs that have been defeated because
11 of the effort to enact this kind of an amendment. I happen to
12 think this kind of an amendment is unconstitutional. I happen
13 to think this is clearly unconstitutional. Nevertheless,
14 it is certainly your right to challenge the current state of the
15 law and to try to change it in the direction which you think
16 appropriate. But when we do that on bill after bill after
17 bill, and the result is not changing with regard to abortion
18 counseling being protected under the first amendment, but
19 rather the result is that none of the compassionate assistance
20 in programs where we would be in agreement, I question not
21 your goal but your strategy. Because a lot of poor people end
22 up suffering as a result of that well-intended but I think
23 misguided strategic judgment.

24 If IOLTA loses next week, as it might, because
25 this kind of amendment is attached to it, that will not have

1 an impact on the first amendment protection provided to
2 abortion counseling. What it will do is deny adequate legal
3 counsel to poor people. So, I don't question your intent.
4 I do ask you to review your strategy to determine whether or
5 not this amendment ought to be attached to every conceivable
6 bill related to the topic that passes through the legislature.

7 CHAIRMAN DEWEESE: Thank you, Mr. McHale. Thank
8 you, Miss Beliveau and Mrs. Kelly, Dr. Neff. For the
9 Committee, the Chair would like to introduce a statement into
10 the record from Charles A. Neff, Medical Doctor, Consultant
11 in Psychiatry to the Philhaven Hospital FOCUS Program. In the
12 interest of time, I am not going to ask Dr. Neff to expatiate
13 on what he has forwarded to the Committee, but I will ask that
14 that be incorporated into the body of our record. And I
15 apologize, sir, but I want to move this hearing to its
16 conclusion. So, you are not on our record. I think we have
17 had a very fair hearing today, and it is with a heartfelt
18 apology, but I never promised you, to my knowledge, that you
19 would have a moment to testify. Please linger longer after
20 our hearing, and we can shoot the breeze informally. I am not
21 going to dinner until 6:30 tonight.

22 DR. NEFF: No apology needed. I came because Mary
23 asked me to. I didn't think I had time to come, but I came.

24 CHAIRMAN DEWEESE: I don't want Mr. Freind to chew
25 on me next week, without that comment.

1 DR. NEFF: I wanted to say something about
2 amnioscentesis.

3 CHAIRMAN DEWEESE: Why don't we talk about that in
4 a few moments because we have a medical doctor coming forward.

5 DR. NEFF: Oh, I beg your pardon.

6 CHAIRMAN DEWEESE: That is okay. We have one more
7 table full of folks, Cathy Dratman, M.D. and Helen Geyer. But
8 anyway, Miss Beliveau, Mrs. Kelly and Doctor, I thank you very
9 much for being here.

10 (Prepared testimony of Charles A. Neff, M.D.,
11 Consultant in Psychiatry to the Philhaven Hospital FOCUS
12 Program, was as follows:)

13 "I would like to present information to help in
14 the legislative process mentioned above.

15 "In addition to the present involvement at
16 Philhaven Hospital my medical practice has had a variety of
17 experiences which I list.

18 "(1) Rotating internship, USPHS Hospital,
19 Baltimore, MD 1943-1944.

20 "(2) Family Practice in Harford County, MD. with
21 considerable involvement across the Pennsylvania state line
22 in York County 1944 to 1957.

23 "(3) Physician and surgeon II in the California
24 State Department of Mental Hygiene, Porterville State Hospital
25 Porterville, CA. 1957-1962.

1 "(4) Residency training in Psychiatry, Patton
2 State Hospital, Patton, CA. 1962-1965.

3 "(5) Senior Psychiatrist, Patton State Hospital,
4 Patton, CA. 1965-1970,

5 "(6) Associate Director, Pacific State Hospital,
6 1970-1972.

7 "(7) Medical Director, Philhaven Hospital,
8 Lebanon, PA. 1972-1984, retired Feb. 14, 1984.

9 "(8) Consultant in Psychiatry, Philhaven Hospital,
10 to present date, 2/5 time.

11 "My medical experience (19 years) and the subsequent
12 psychiatric experience (24 years) has led me into a wide
13 variety of experiences of human pain and anguish. Some of the
14 most painful have had to do with people who for one reason or
15 another have aborted a child that, given a normal gestation,
16 would have been their own son or daughter.

17 "During my early internship and family practice I
18 struggled with the tragic effects of "criminal" abortion as
19 indeed they were whether under the guise of some gynecological
20 procedure done by an unscrupulous surgeon, or of the actual
21 criminal invasion by some person for frankly illegal reasons.

22 "I have had to deal with the life threatening
23 results of abortion and the psychological damage to the mother
24 and frequently to the father of the child so aborted.

25 "Since my days in psychiatry coincide with the time

1 when the Wade vs. Roe decision legally removed the personhood
2 of the unborn child my experience has been largely with the
3 post-abortion syndrome. This is nothing more than the grief
4 reaction over the loss of the person in utero plus the weight
5 of guilt for having been the person to make that decision.

6 "I well recall the young woman who had been a
7 patient of mine in California calling in anguish over and over
8 again say, "Doctor I killed my baby." She was no longer a
9 patient of mine because I was here in Pennsylvania, but she
10 continued to call me because of our professional friendship.

11 "Another case is of a young couple who had an
12 abortion followed by a camping trip. It was patently obvious
13 that she, a young professional woman, had not been informed of
14 even the most rudimentary implications of this loss. She said
15 "I went through Hell," when she came to see me in her
16 depression.

17 "The limits of confidentiality do not permit me
18 further specificity, but suffice it to say I have spent many
19 hours with people working through the tragic grief of a child
20 they would never know.

21 "I want to place my name wholeheartedly in
22 objection to the present abortion laws as they stand,
23 permissive of abortion on demand without the informed consent,
24 without the safeguards provided for less serious surgical
25 procedures.

1 "I want further to go on record as stating that I
2 am also firmly convinced that abortion is indeed the
3 destruction of people who have no recourse, but to be
4 destroyed at the decision of a woman who would be their mother.

5 "I am amazed that in this time when we carefully
6 reconstruct the tiny bodies of new individuals with our
7 increasingly sophisticated surgical techniques; when we repair
8 congenital heart defects (and thank God we can); when we even
9 replace multiple organs that are defective in small children,
10 that we still feel justified in killing unborn children.

11 "I feel frankly that only when a mother's life is
12 certain to be lost along with the child is there justification
13 for surgical termination of life. For example, the rare
14 condition of ectopic or tubal pregnancy. I feel that there
15 are few if any other valid medical justifications for
16 terminating the life of a child at the gestational age of
17 3 - 6 months any more than I do for those between 9 months and
18 5 years.

19 "I have spent a great deal of my life providing
20 medical care for retarded people, many of whom had no
21 likelihood of ever being well. I still feel that all human
22 beings have the right to be cared for and valued, and to be
23 helped to optimal achievement.

24 "My statement then is more than just an objection
25 to the permissiveness of present abortion standards. It also

1 is affirmation and certain conviction that a newly conceived
2 individual is an individual in his or her own right and needs
3 to be protected at all costs. I further feel that a woman who
4 is not fully apprised of that fact is indeed being treated
5 without appropriate informed decision making."

6 CHAIRMAN DEWEESE: One comment, as they leave.
7 These people will be the final people testifying. The Chair
8 does not recognize the language in the bill to be abortion
9 neutral. I just want that for the record. I do not recognize
10 it as being abortion neutral.

11 Welcome, ladies, and thank you for your perseverance
12 Who is who?

13 MS. GEYER: I am Helen Geyer. Good afternoon.
14 I live in Upper Darby. It is just outside of Philadelphia.
15 Much to my chagrin, I am in Mr. Freind's district. We have
16 locked horns before. I would like to note before I begin that
17 I made a very few short additions to my written testimony as I
18 have been sitting here, and I would be happy to submit a
19 revised copy in its entirety should you wish. I also hope
20 you will forgive my mistitling of my testimony. I gave you
21 all raises inadvertently.

22 CHAIRMAN DEWEESE: What did you call us, senators?

23 MS. GEYER: Sorry about that. Six years ago my
24 life was touched in a very personal way by the abortion issue.
25 I had one myself. At the time I was a \$13,000 a year clerk in

1 raised badly by someone else, by putting it up for adoption,
2 I considered it an injustice^{to}/myself to take on the burden that
3 I was neither prepared nor willing to bear. My life is
4 precious. It is the only one I will ever have in this world
5 regardless of whatever afterlife there may or may not be. And
6 it behooves me to spend it as wisely as I can. It was clear
7 to me then and I don't feel any differently today, that to
8 take on the job of child rearing that I knew I was inadequate
9 for would have been a gross mistake. Not only would it narrow
10 my future options, but it would also be asking for unhappiness.
11 So, an additional reason was, preservation of my future.

12 Contrary to the way anti-abortionist were painted,
13 notably Claude Lewis of the Philadelphia Inquirer, this was
14 not a casual decision. It took many agonizing hours of
15 deliberation to arrive at the conclusions above. I neither
16 arrived at my decision or executed it lightly. I received
17 counseling from the clinic I went to. I spent many hours
18 discussing it with my partner. I did not overlook the fact
19 that I was taking a life. However, I did not consider a group
20 of cells capable of division but not cognition on equal par
21 with my life. This was not a person I was killing. At nine
22 weeks in my womb this life was still a potential child. A
23 potential, which for the sake of preserving my life, I chose
24 not to fulfill.

25 When I hear the term prolife, I always have to ask

1 whose life? Certainly not mine or any woman's facing an
2 unwanted pregnancy. It is quite clear to me the so-called
3 proliferers couldn't give a damn about women's lives. This is
4 why the bill before you is so insidious under the guise of
5 concern for women seeking abortions and their parents and
6 responsible males. This bill puts up obstacles and roadblocks
7 in order to make what is already a difficult ordeal more
8 painful. I can't tell you how angry it makes me to read
9 Representative Freind's sanctimonious briefing on this bill.
10 While giving lip service to concern for women, Representative
11 Freind's primary concern is harassing them.

12 None of the measures in this bill are necessary to
13 ensure women's safety. There is already ample regulation in
14 place to ensure this. When the legal language is stripped
15 away, the goal of the legislation is clear, harassment.
16 Without going into specific measures, as has already been
17 covered amply by the people who preceded me, I want to tell
18 you that not only are they unnecessary, they will in fact be
19 detrimental to those such as scared teenagers of authoritarian
20 parents and women whose partners are abusers, who will be
21 caused hardship by fulfilling their requirements.

22 I would like to close with a word about the clinic
23 where my abortion procedure was performed. The anti-abortion
24 people are fond of calling these places abortion mills or they
25 speak of the abortion industry. Purposely trying to portray

1 them as coldhearted businesses. Actually, I was astounded at
2 how compassionate and caring the staff at this clinic was.
3 They m u s t see hundreds of women a week with the same
4 problem and still they managed to convey to me that they cared
5 about me as a separate human being with a unique problem.
6 They took great pains to make sure that I understood exactly
7 what I would be going through and the risks involved and what
8 my other options were. And they were willing to spend as much
9 time at this as I needed.

10 I wasn't here earlier for Miss Gan ' testimony,
11 only her questioning after lunch. But I would like to submit,
12 in agreement with Representative Piccola, that ample information
13 is made available to women seeking abortions. It was probably
14 made available to her. If not, she is the exception, not the
15 rule.

16 Regardless of information available in public
17 debates, the counselors in the clinic that I went to, and I
18 understand from other women that this is standard practice,
19 made every effort possible to make sure I was fully informed.
20 During the procedure another woman held my hand and talked me
21 through it, always alert for any signs of distress from me. I
22 will never forget the understanding and compassion in her eyes.
23 When I cried from the emotional pain of what was happening,
24 even though I know it was a well thought out rational and
25 reasonable, it was still very saddening. Under better

1 circumstances, I would have loved to have a child and still
2 hope to, and this made terminating that particular pregnancy
3 doubly difficult. People at the clinic understood how hard
4 this could be and I am deeply grateful to them to this day for
5 the warmth and caring they showed me at this difficult time.

6 I would also like to add that I just graduated from
7 college, Bryn Mawr, and am currently earning quite a
8 respectable salary and looking forward to attending law school
9 next year. I believe that I wouldn't be able to do any of
10 these things. I wouldn't be where I am today had I been
11 encumbered with a child to care for. Nor could I look forward
12 to the plans that I have made for myself which don't include
13 child rearing at least in the near future.

14 The point is, I am currently doing and plan to
15 continue to do what I want to do with my life. I am enjoying
16 my life and liberty in pursuing my own happiness. A pursuit
17 which would be thwarted if I would have been forced to bear and
18 care for a child I did not want. Thank you.

19 CHAIRMAN DEWEESE: Thank you. Doctor. Welcome.

20 DR. DRATHAN: Thank you, Mr. DeWeese. I thank you
21 for your patience and persistence. I will take just a few
22 minutes of your time. I would like to, in the interest of
23 brevity, introduce in evidence several pieces of written
24 information. One from the National Abortion Federation
25 listing numbers of incidents of reported violence toward

1 abortion providers. Another, an information packet from
2 Planned Parenthood Federation of America on the emotional
3 effects of induced abortion, the post-abortion syndrome that
4 we have heard bandied about today. This term was based on a
5 paper done by Ann Catherine Speckard (phonetic) several years
6 ago which was to be published, but which was not published
7 because of the disclaimer from her PhD advisor, the chairman
8 of her PhD committee. And I quote, "I have been surprised by
9 what I have read in the newspapers about her findings," this
10 was after it was passed on, "and appreciate the opportunity
11 to clarify the issue. Her findings apply only to the 30 women
12 who have volunteered to participate in her study and to
13 absolutely no one else."

14 I will also refer you, please, in the interest of
15 education for your Committee, to a book published by the
16 American Psychological Association, Adolescent Abortion,
17 Psychological and Legal Issues, edited by Gary Melton
18 (phonetic) and published in 1986 by the University of Nebraska
19 Press. I hope that your Committee will have a chance to read
20 and consider this book because it will give you some very
21 dispassionate information about the effects of abortion on
22 young women, their families and babies they were forced to
23 bear and other circumstances.

24 You have written testimony. I would also like to
25 spend a few minutes clarifying some medical issues that have

1 been raised today. The first is the point about abortion does
2 not require parental consent. A pregnant woman is considered
3 to be an emancipated minor. The same 13 year old, if she
4 continues her pregnancy, does not have to have the parents
5 sign for a caesarean section for her which is certainly a
6 much more elaborate and dangerous procedure at the end of a
7 pregnancy. At 14, if her child requires surgery, she is
8 considered to be legally responsible for making that decision.
9 I submit to you that first or even second trimester abortions
0 are very safe in this country under the legal system that
11 exists now. If you force it underground by legislation such
12 as this, you are going to start seeing a lot of 13 year olds
13 coming into emergency room septic, meaning infected throughout
14 the system, who are going to lose the capacity to reproduce
15 and some of whom may even lose their lives. Because they have
16 tried to abort themselves or they have gone to somebody in a
17 back alley because their doctors were so afraid of what would
18 happen to them because of this kind of legislation, that they
19 could not get the care that they can get today.

20 Alternatives are given in options counseling,
21 in pre abortion counseling, in any responsible clinic in this
22 state today. Discussions of adoption, of programs that are
23 available, and there are very few of them for women who wish
24 to carry their pregnancy to term and who cannot afford it
25 themselves, are given to these women if they wish it.

1 Counselors also discuss at great length with young teens,
2 talking to their parents, talking to their partners. We don't
3 want to see these kids go through it alone. It is a very,
4 very difficult decision to make. And if you ladies and
5 gentlemen make it that much more difficult for them, we are
6 going to have a lot more pregnant teens, like people I have seen
7 in my practice who deny and whose parents can deny until
8 they are in labor that they are pregnant. You are also going
9 to push some of these kids to the point where, going through
10 this judicial process, you are going to put them in a high
11 risk category because they require very late second trimester
12 abortions, and some of whom want abortions may not even be
13 able to have them at all because of all the caveats of going
14 through the system and it can take, if you count it up, at
15 least ten days. That may be the ten days that preclude her
16 from having the procedure that she feels she needs.

17 You should also know, you will find it in this
18 book, that any state that has put through a parental consent
19 has forced their courts to become a rubber stamp. Better than
20 90 percent of petitions to the court from minors for abortions
21 are granted. If you want to overburden even further, our
22 already overburdened judicial system with this kind of thing,
23 I hope you will not do it.

24 There is also no such thing as a compulsory
25 abortion. I don't know where people are getting this idea.

1 And as a board certified obstetrician and gynecologist, I am
2 appalled at what is going on at this hearing today with these
3 kind of terms being bandied about. Amnioscentesis, chorionic
4 villi sampling are ways of giving parents information about
5 the conceptus that the woman is carrying. We make it very,
6 very clear in counseling about these procedures, in counseling
7 women about the results afterwards, that this is information.
8 They do not have to do anything more with it than hear it and
9 we are glad to discuss it. Because a woman comes up with a
10 genetically abnormal test, there is nothing anywhere nor will
11 there ever be anywhere that will force her to abort that fetus.
12 As Miss Josephs^{said,} this is information that people can use to
13 plan.

14 You talk about informed consent, this kind of
15 thing is giving a woman informed consent about her pregnancy,
16 and if we make it illegal to discuss these kind of things,
17 illegal to give the woman the option of knowing that she may
18 abort this fetus, we are doing her and her family and our
19 society a tremendous amount of harm. I hope you have some
20 understanding of the emotional cost and the financial cost of
21 raising such a child. And I am not talking just about the
22 family. I am talking about society as a whole.

23 Miss Gans' comments before she left about not
24 knowing whether she could conceive and carry again. I am
25 sorry that she is not here now and I hope that she will get a

1 copy of my comments as part of the record. Because I think she
2 has been so upset that perhaps she hasn't heard or perhaps she
3 has not been properly told what could be done for her right
4 now. There are simple, nonevasive procedures that can be done
5 to help her to know whether or not she is one of the very,
6 very few unfortunate women, who having had a first trimester
7 abortion, do have a complication. The number of these is very,
8 very small.

9 Also, a 19 week fetus is very different from a
10 32 week fetus that was discussed in the malpractice and
11 possible murder trial that was mentioned before from the
12 Philadelphia area. 19 week fetuses don't have enough lung
13 tissue to live outside of the womb. It is not until at least
14 24 weeks gestation that with our current technology a fetus
15 can survive extrauterine. Now, obviously as our technology
16 improves, our difficulties around pregnancies of this term is
17 going to become more and more difficult.

18 I wish you also, please, to consider the cost of
19 keeping these babies alive. I'm not saying we shouldn't do
20 it. It is a very, very expensive procedure. And fetuses
21 delivered under 28 weeks have a tremendous propensity for
22 coming out of that intensive care nursery, if they are alive,
23 with some neurological deficit; about 25 percent of them now.
24 So, we are not talking black and white here.

25 Responsible physicians, who have not made a

1 mistake in dating, will know when they go in with a pregnant
2 woman whether or not that baby is probably viable. If the
3 physician thinks the baby is probably viable, he or she will
4 have someone there to try and help the baby after it is
5 delivered. Note, this is a delivery, not an abortion.

6 Late abortions are requested primarily by the very,
7 very young, by rape victims and by women who have an
8 amnioscentesis that shows them that their fetus has such
9 severe anomalies that they don't feel that they can help it
10 or that they know the fetus will be dying within days within
11 the time it is born or hours. These are women who are in
12 great emotional trouble. If you add to their difficulty
13 all of the rigamarole that is in this bill, you have to
14 consider that you are going to be guilty of harassment of
15 these women.

16 I would like to address the issue of the informed
17 consent section, 3205. This section requires that women seeking
18 abortion be provided with sufficient information to enable
19 them to make informed and deliberate decisions concerning
20 abortion. Such information is currently provided and has been
21 since 1973 when abortion became legal in this country.

22 The sense of the act implies a great risk to the
23 woman as a result of abortion; in fact this is not the case.
24 The risk of abortion in the first trimester is less than that
25 of an appendectomy. You can find these figures in CDC. I'll
send you copies if you wish.

1 Additionally, the proposed amendments to Section
2 3205 clearly forbids the physician to designate an agent to
3 provide the information necessary for informed consent.
4 Physicians regularly delegate the informed consent and
5 counseling functions to nurses, physicians assistants, nurse
6 midwives or other trained counseling staff. If paramedical
7 personnel were permitted to continue to provide the basic
8 information, this would allow physicians the time they have
9 now to answer questions and provide more detailed information
10 which only they can do. This is the system that many physicians
11 currently use. You have heard from a patient right here, how
12 well prepared she was for surgery.

13 If physicians and only physicians were to be
14 required to provide this information the effect would be to
15 increase the cost of abortion procedures and take away the
16 counseling edge provided by the physicians' delegate. Pro
17 choice advocates support the clear inclusion of a physician's
18 ability to designate agents to also provide the necessary
19 information. We should also realize that in the real world
20 when these paramedical personnel give information, they are
21 much more able to take the time to discuss the emotional
22 ramifications with clients. They are much more less
23 threatening than the physicians are and I think a lot more
24 information is exchanged in those sessions than might be if
25 this bill were to go through. Now, certainly there are plenty

1 of physicians who could take the time, but some of them may
2 not be able to.

3 The second issue I wish to speak about is Section
4 3210 (b) and (c) which has to do with degree of care and
5 second physician requirements. I discussed the definition of
6 viability with you. Moreover, abortions performed after the
7 20th week of pregnancy are rare and are done for medical
8 reasons. In 1986, almost 52,000 abortions were performed in
9 Pennsylvania. Of those, only 17 were performed on women with
10 pregnancies past the 20th week. The reasons for these
11 abortions were pregnancy-related health problems such as
12 toxemia; pre-existing health problems, such as cancer or
13 diabetes, some of which were made worse by the pregnancy and
14 some of which necessitated termination of the pregnancy so
15 that the woman could be treated for her life threatening
16 cancer and for severe fetal anomalies. This decision is an
17 exceedingly difficult one and must be made by the woman and
18 her physician. For the state to enter into the decision and
19 dictate the method of abortion interferes with the
20 doctor/patient relationship and does not allow the physician
21 ample discretion in safeguarding their patients' health.
22 Again, please understand that when we are talking about really
23 viable fetuses, the precautions that are listed in this bill
24 are taken already.

25 In conclusion, I want to talk about the

1 psychological effect and implication of this legislation.
2 Proponents of this Abortion Control Act do so in part under
3 the guise of concern for the psychological effect that abortion
4 has on women. I submit that there are fewer problems after a
5 wanted abortion than after an unwanted delivery. You will find
6 documentation of that in this book. A study in Czechoslovakia
7 of the women and children in families where unwanted
8 pregnancies were carried to term determined that these
9 families experienced higher incidence of child abuse, school
10 dropouts, and trouble with the law. This study was conducted
11 after the rescinding of legalized abortion. I believe that
12 restricting access to legal abortion in this state or country
13 would have the similar results on families here.

14 As a physician I have seen the psychological
15 effect that the harassing and often violent actions of
16 anti-choice demonstrators has had on patients. The present
17 law more than adequately protects the rights of patients to
18 quality medical care. Legislators who are truly interested
19 in the physical and emotional health of women will vote
20 against this restrictive piece of legislation. They will also
21 protect women, who are exercising their legal reproductive
22 rights, from the psychological stress of the inhumane and
23 often criminal activities of anti-choice demonstrators.

24 I appreciate your time and your consideration of
25 my comments. I will be more than happy to answer any questions

1 now or in writing from the Committee if there are other medical
2 points that I can clarify.

3 CHAIRMAN DEWEESE: Doctor, I have a question.
4 Paul, do you have something?

5 REPRESENTATIVE NCHALE: Yes.

6 BY CHAIRMAN DEWEESE:

7 Q First, the question I have, other OB/GYNs that you
8 come in contact with across the state professionally, do they
9 counsel, a lot, you are not an anomaly, you are not the only
10 one --

11 A They do counsel, but I will tell you --

12 Q Both sides?

13 A Right. I will tell you that in evaluating
14 abortion providers for Planned Parenthood Southeastern
15 Pennsylvania, I have found that the counseling programs
16 available in clinics are much more complete because they have
17 paraprofessionals whose job it is to take the time to discuss
18 the procedures with the women.

19 Q Just out of curiosity, the first 100 OB/GYNs at
20 their annual convention, how many of those feel women should
21 make up their own mind and the state should stay the hell out
22 of it? And how many of them feel like Steve Freind? Just
23 take the first 100.

24 A That is a hard question and it would depend which
25 100. But I would say overall physicians feel that decisions

1 about medical problems reside with the patient, with the
2 physician being the trained, qualified medical counselor.
3 And that if the state were to become involved with these
4 decisions, a lot of the misinformation such as went on here
5 this afternoon may be promulgated which give women the wrong
6 information and therefore makes them make the wrong decision.
7 Understand, I am not saying that every woman who walks into
8 an abortion facility is requesting an abortion, must have an
9 abortion. We do extensive counseling. We talk to the client.
10 There are some, who after counseling, decide they don't want
11 to have the abortion or that they want to go home and think
12 about it, want to talk about it some more. That is fine.
13 We don't do things like saying, well, you are here now, you
14 got to have it. We have to make our quota. That doesn't
15 happen. But I will tell you this --

16 Q It has got to happen someplace, doesn't it?

17 A No, it does not. I will tell you a story about a
18 prolife place in our catchment area. I was at our Norristown
19 clinic two weeks ago. I saw a woman who came for pregnancy
20 testing. She was pregnant by a method failure. Her
21 diaphragm she put in properly but it didn't work. She found
22 this prolife clinic in the phone book, although it wasn't
23 listed that way, anti-choice. You will see why. She went in
24 there having made an appointment for pregnancy testing. They
25 would not do the pregnancy test until she sat through a film

1 about all the bad things that could happen to her and her
2 fetus if she had the abortion. She said to the woman who was
3 counseling her, I don't want to see this film. I know what I
4 need to do. The woman sat there and put her hand on her arm
5 to restrain her in her chair in that room. And you tell me
6 about choice.

7 CHAIRMAN DEWLESE: I think it is a horror story.
8 Don't you think horror stories take place on both sides of the
9 issue?

10 DR. DRATMAN: I'm sure they would. But you have
11 heard a lot of them the other way and I think this one should
12 be shared.

13 CHAIRMAN DEWLESE: Paul McHale.

14 REPRESENTATIVE MCHALE: Thank you, Mr. Chairman.

15 BY REPRESENTATIVE MCHALE:

16 Q Doctor, we heard testimony today from another
17 physician, who, if I am not misstating his testimony, and I
18 certainly don't mean to misstate it, expressed the opinion
19 that he was treating two patients. And I had the impression,
20 at least from his testimony, he viewed his professional
21 and ethical responsibilities as such that he had both the
22 mother as a patient and the developing child, embryo, fetus,
23 whatever you wish to use to adequately convey the baby/^{developing}within
24 her womb. He felt an ethical obligation to both patients.
25 I gather, from his testimony that obligation attached

1 probably at the moment ^{of} /conception, though again, he wasn't
2 absolutely clear on that. In your practice, at what point,
3 if any, do you feel you are treating two patients? Does that
4 occur at any point during the gestation period?

5 A Mr. McHale, I think you asked a very, very
6 difficult question and I, too, struggle with it. I think we
7 are going to struggle with it more and more as medical
8 technology improves.

9 Q Yes. You may have heard the question earlier
10 today.

11 A Right. At this point in my practice and in my
12 life, I feel that the woman who is walking around and talking,
13 thinking and making decisions, who may be the one to have
14 complications, who may bleed, is the one who must be the
15 primary patient, primary patient until such time as the fetus
16 that she is carrying is capable of extrauterine life.

17 Q So, you are talking about viability?

18 A I don't like that word the way it is used here.
19 today. I say capable of extrauterine life. I mean that at
20 such gestation that the technology that we have now is
21 capable of keeping that child alive in such a way that it can
22 grow. And to my understanding, that does not happen until at
23 least 24 weeks gestation.

24 Q If I may ask a question at this point. I
25 understand the line that you have just drawn. I recognize

1 that it was drawn in good faith and that it is a sincere
2 judgment on your part. Why should the right to life, which
3 the law attaches to that developing child, be dependent upon
4 the current state of technology?

5 A Well, what are you saying then? That the fetus'
6 right is more important than the mother's right? Now, hang on
7 a second, let me finish this.

8 Q Sure.

9 A If the fetus were to come out at 19 weeks, nobody
10 on God's earth can keep it alive. And if the mother is in
11 such psychological distress that she is not going to be able
12 to care for this child, if she is in such physical straits,
13 although she doesn't meet the criteria for medical emergencies
14 all through this, her condition is going to be harmed through
15 continuing her pregnancy. Her right to psychological and
16 physical health are gone here. And you see, that is why I'm
17 making this distinction. Because to me a fetus cannot be a
18 person until it is capable of living like a person.

19 Q I understand.

20 A I can't argue with you when life begins. A lot
21 wiser people than you and I have gone through this, as
22 Reverend Mosley said, for thousands and thousands of years.

23 Q I am not raising that philosophical question. I
24 am really raising the medical question. The question has
25 ethical implications. I understand Roe vs. Wade in terms of

1 drawing a line at point of viability. Because of ever changing
2 technology, I understand why you prefer to use the term, the
3 capacity for extrauterine life. That is the line that can be
4 drawn fairly clearly in terms of current technology.

5 A Well, I'm glad you think so. It is not always so
6 easy.

7 Q It can be drawn at least within certain limits?

8 A I would agree with that.

9 Q The developing child, the embryo, fetus, capable
10 of extrauterine life. The alternative way of looking at it,
11 one that I struggle with, is looking at the developing child
12 in terms of the child's biological development independent of
13 its ability to survive outside the womb. In other words, it
14 is possible for someone, and I guess I am getting philosophical,
15 it is possible for someone to draw the moral conclusion that
16 a fetus has developed to a point that it is deserving of legal
17 protection because of what it is and the characteristics that
18 it possesses in advance of the point that that fetus would be
19 able to survive outside the womb.

20 A I would ask that persons who promulgate that
21 opinion, what about the rights of the mother?

22 Q I agree. I guess what makes it so difficult for
23 me and many of my colleagues is that we may find Mr. Freind's
24 position to be philosophically and theologically, and I happen
25 to belong to the same religion, to be philosophically and

1 theologically correct in terms of value of life at the moment
2 of conception. But we have difficulty under law enacting that
3 philosophy into a statute that does not offend basic
4 constitutional principles of privacy. Again, at the other
5 end of the spectrum, if I may, I have good friends who
6 believe, I think mistakenly, that the decision to terminate a
7 pregnancy is entirely a private matter up to the point of a
8 live birth. I am quoting from a friend of mine who is active
9 with the Reproductive Rights Organization and the League of
10 Women Voters. I find that position to be as extreme as Mr.
11 Freind's.

12 For most of us, I think there is a continual
13 development not necessarily in a moral sense but in a legal
14 sense at which point somewhere during the gestation period,
15 the woman's right of privacy, in terms of continuing her
16 pregnancy, is subordinate to the legal rights which ought to
17 attach to a developing child past a certain point of
18 development. That means you end up making value choices
19 during the nine month period.

20 A I understand that. But to me it means that in
21 order to give rights, if you will, to that fetus, that fetus
22 has to be capable of remaining alive outside the uterus and
23 that is the line that I have to draw.

24 Q I understand that, but that is not the line I
25 would draw. I think that is a --

1 A I keep asking you what about the rights of the
2 mother? That is the question that has to continue to be
3 considered here.

4 Q That is only one-half of the equation and you see
5 that half of the equation.

6 A I asked you also to see that I see the fetus as a
7 patient in terms of the care that I give that patient during
8 a pregnancy that the mother wishes to continue. I put patients
9 in the hospital, talk them into it at 15 weeks because they
10 were bleeding and they didn't want to lose the pregnancy or
11 they weren't sure. I said to them, we have to do this.
12 Because until you make up your mind whether you want to abort
13 or not, this pregnancy needs to continue. There aren't many
14 easy outs. I talk to you not as an idealog but as a
15 practitioner who has been there.

16 Q No, I think you are a practitioner who has been
17 there but with a clear bias. Just as Mr. Freind has a bias.
18 You say what about the rights of the woman. What about the
19 rights of the mother? Obviously, that is an important
20 question. You pay little attention in your testimony and in
21 your answers to my questions with regard to the rights --

22 A I don't have --

23 REPRESENTATIVE MCHALE: Doctor, if I may, just a
24 moment.

25 DR. DRATMAN: Please, Mr. McHale.

1 REPRESENTATIVE MCHALE: You don't show great
2 sensitivity to what I think are the important rights of the
3 developing fetus. Rights which become more and more
4 important the further the fetus of the child develops.

5 Mr. Freind takes the other extreme from the moment
6 of conception. But what about the rights of the child? What
7 about the rights of the baby? Without spending a great deal
8 of time worrying about the rights of the privacy and health
9 on the part of the mother? Despite perhaps lip service to
10 the contrary. The difficulty I have is, I find both sets of
11 rights compelling. And we, as lawmakers, must choose at what
12 point, and I think somewhere through the developmental process,
13 the gestation period, the woman's right of privacy becomes
14 subordinate to that child's right to survive. I guess that is
15 what I am groping at here.

16 I understand what you are saying. You draw that
17 line primarily at the point where the child could survive
18 extrauterine. I think I'm a little bit more conservative than
19 that. I find that line to be clear but philosophically
20 arbitrary.

21 Mr. Chairman, I would just say this, very briefly
22 in closing. I think this has been a very productive hearing.

23 CHAIRMAN DEWEESE: Not garbage and a dog and pony
24 show as Mr. Freind alleged in the Philadelphia Inquirer.

25 REPRESENTATIVE MCHALE: Well, I want to, the

1 Chairman is an old friend of mine. And I don't say this
2 except to pay him a public compliment. I think this has been
3 an exceptional hearing today, giving fair opportunity to
4 comment on both sides of the issue. And I think the Chairman
5 has been outstanding in the way he has conducted this hearing.
6 For me it has been very, very helpful. Thank you.

7 CHAIRMAN DEWEESE: Thank you. Do you have any
8 further comments?

9 DR. DRATMAN: Just to thank you.

10 CHAIRMAN DEWEESE: I want to thank the folks, you,
11 as much if not more than anyone. My reaction to today is that
12 I am more acquainted with the nuances of the language and I
13 feel more comfortable sharing some moments of dialogue
14 in debate with Mr. Freind with this measure when it comes
15 before the floor because of this kind of setting. I think
16 that is almost inherent. And all of us grow from learning.

17 You folks stayed about four hours past the time
18 when you were asked to testify. So, I did give accolades to
19 others that waited and lingered. So, you are obviously in
20 line for my thanks for hanging around so long.

21 DR. DRATMAN: We felt that this was so important
22 that we had to stay to talk with you.

23 CHAIRMAN DEWEESE: Well, I will talk to you
24 for a minute after the hearing off the record.

25 The Chair would assert that the record will remain

1 open so that the Supreme Court case of Thornburgh versus the
2 American College of Obstetricians and Gynecologists can be
3 inserted into the record and also that the parental
4 notification laws: Their Catastrophic Impact On Teenager's
5 Right to Abortion can also be inserted into the record. And
6 finally, the Choice Report on the effects of the cutoff of
7 medicaid funded abortions can also be inserted in the record.

8 Chief Counsel will work with the Court Reporter
9 to make certain that those additional items are inserted in
10 the record.

11 If I hear no objections, hearing none, that is
12 the way that will be. Thank you very much. This meeting is
13 adjourned.

14 (Whereupon at 5:45 p.m. the hearing was
15 adjourned.)
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I hereby certify that the proceedings and evidence taken by me in the within matter are fully and accurately indicated in my notes and that this is a true and correct transcript of same.

Dorothy M. Malone
Dorothy M. Malone
Registered Professional Reporter
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