

North Dakota Catholic Bishops Opt to Preserve *Roe v. Wade*

by Robert L. Hale

MINOT, N.D.- Rep. Dan Ruby (R-Minot, N.D.) introduced a bill (HB 1572) in the North Dakota House of Representatives that defined "individual, person, or human being" as "any organism with the genome of homo sapiens." The intent of the bill was to clarify personhood under the state constitution. The bill was passed by the House and moved to the Senate.

Four days before the Senate hearing on the bill, North Dakota's two Catholic Bishops, Paul Zipfel of Bismarck and Samuel Aquila of Fargo, called a news conference to announce they could not support the bill as written. They offered amendments that gutted the bill in its entirety -- striking every word of the original bill, including the operative word "person."

Neither Bishop nor staff member contacted Rep. Ruby to discuss any concerns prior to the news conference. Neither testified at the House hearing. At the news conference, they stated, "We have directed the North Dakota Catholic Conference to draft amendments that would preserve the intent of HB 1572 while eliminating unnecessary problems." Rep. Ruby's repeated calls to Bishop Zipfel went unanswered. The intent of Rep. Ruby's bill was to respond to Justice Blackmun's acknowledgment in *Roe v. Wade* that the U.S. constitution did not define "person." This was the pivotal basis on which that decision concluded that there was no recognizable life issue. The ruling determined that, since "life" was unknown, the liberty interest of the woman to decide how to deal with her pregnancy must be paramount.

In short, there was no "person" to protect. The Justice noted, however, that if "personhood is established, the appellant's case, of course, collapses, for the fetus's right to life would then be guaranteed specifically by the Amendment (14th)."

If Rep. Ruby's bill were to become law, then the question posed by Justice Blackmun would be at issue; the Supreme Court would have a chance to decide whether state sovereignty, relative to the protection of persons, would be upheld. In the event the Court were to decide in the affirmative, each state would be free to legislate as it sees fit, relative to the protection of persons.

Rep. Ruby's bill has put that question before the U.S. Supreme Court for the first time. The Bishops stated their intent was to, "Make the bill more a statement of legislative intent to guide legal interpretation rather than a mandate to revise application of existing laws."

The reality is that Bishop Zipfel opposes anything that would reinstate North Dakota's abortion laws prior to *Roe*. He has repeatedly opposed bills that would potentially challenge *Roe*. He believes that women should never be held legally liable for procuring abortions and that the repeal of *Roe* would do just that in North Dakota.

Bishop Zipfel has used his office and the North Dakota Catholic Conference to gut HB 1572. While he claims his wishes to "preserve the intent of HB 1572," he does no such thing. The Bishops totally eliminated every word of the bill, including the critical word "person," and replaced them with 218 words, many of which the courts have rejected.

While Bishop Zipfel and the North Dakota Catholic Conference use the right rhetoric and claim they wish to provide, "a direct challenge to *Roe v. Wade* and its progeny," their actions speak louder than their words. They propose to gut a bill that poses one simple question to the Supreme Court: In the absence of a U.S. Constitutional definition of "person," can a state define "person"? They replace it with confusion and ambiguity, and they leave out the critical term.

Why didn't the Bishops introduce their own bill if they believe they know how to challenge *Roe*? Why are they challenging and gutting HB 1572 after it has passed the House? Why have they refused to talk with the sponsor of HB 1572? Their actions challenging the bill may well ensure its failure.

For those who wonder why abortion, after 36 years, is still taking almost 1.5 million lives each year in the U.S., the Bishops' actions in North Dakota help to answer that question.