The original documents are located in Box 37, folder "Definition of Death (2)" of the American Citizens Concerned for Life, Inc., Records at the Gerald R. Ford Presidential Library.

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The Right to a Natural Death

James F. Csank

ONE OF THE inevitable results of the modern beliefs in judicial activism and judicial supremacy is the phenomenon of "taking to court" almost any aspect of contemporary life in these United States with which a person feels uncomfortable or by which he feels oppressed. Does someone object to the way in which the electoral districts of his state legislature are drawn? Take the "equal protection of the laws" clause of the Fourteenth Amendment to the United States Constitution, add a catchy slogan like "one man, one vote," and run to the courthouse. Does a pregnant woman in Texas want an abortion? Take a catchy slogan like "the right of privacy," add some rhetoric about "the penumbras of the Bill of Rights," and you have your lawsuit.

Theoretically, the court system exists to provide a forum for the resolution of the disputes which unavoidably arise between members or groups in society, and for the invocation of the organized power of the state with which to enforce the terms of the judicial resolution. Courts are necessary if we are to maintain at least a modicum of sociability, if we are to reduce to a minimum our resort to self-help. What we see around us today, however, is a *reductio ad absurdum* of this reliance on and faith in the judicial process. Conflicts are created, fashioned into lawsuits, and presented to various courts for decision. Often, the litigants are too impatient to turn to the political processes; in many cases, they are too unsure of obtaining their desired end by any method other than the judicial.

Many courts are only too eager to respond. Hypnotized by their power, which in the final analysis rests upon the seemingly endless capacity of the American people to accept any judicial decision as the right decision, and by their self-proclaimed wisdom, courts in general are willing to hear and decide any controversy submitted to them, no matter how nebulous, no matter how contrived, no matter whether the issues presented are within the competence of the judiciary to solve.

This increasing dependence upon judges for the settlement of conflicts would be neither dangerous nor frightening if the courts were merely undertaking to exercise more often their traditional role in their traditional areas. We might in such case only smile at the

James F. Csank is a practising attorney, and a frequent contributor to this review.

An Alternative to "Death with Dignity"

Germain Grisez and Joseph M. Boyle, Jr.

THE EUTHANASIA DEBATE has begun. Opinion polls across the United States reveal increasing public acceptance of euthanasia. In 1976, California enacted the first "death-with-dignity" legislation.[1] In 1977, more or less similar bills were introduced in the legislatures of at least forty-one states. In seven of these states (Texas, Oregon, Idaho, Nevada, North Carolina, New Mexico, and Arkansas[2]) bills were enacted into law by mid-1977. Some of the 1977 statutes are objectionable in certain respects in which the California Natural Death Act is not. The Idaho, Nevada, and North Carolina laws are looser in their definitions of key terms. The New Mexico and Arkansas laws enact a "right to die" and extend the exercise of this right to minors by means of proxy consent. The Idaho statute uses "right to die" in its title. The California statute contains a section explicitly excluding mercy-killing; its avowed purpose is only to recognize the right of a competent adult to direct a physician to withhold or withdraw life-sustaining procedures in the event of a terminal illness so that nature can take its course.[3] The Idaho, New Mexico, and Arkansas laws do not authorize mercy-killing, but neither do they explicitly exclude it.

The "death-with-dignity" legislation has been widely criticized, mainly for intruding into the already delicate physician-family-dying-patient situation unnecessary legalisms which do little to facilitate exercise of the patient's rights. In fact, the new laws may have the effect of infringing on the patient's rights by reinforcing the already very great authority of the physician and by implying that patients who do not meet the formalities of the statute must be kept alive by all available means — must be treated to death.[4]

We see two things wrong with the "death-with-dignity" legislation which we consider even more serious. First, it opens up possibilities of homicide by omission. Second, it is paving the way for active euthanasia.

As to the first point: if these statutes authorize physicians to withhold or withdraw treatment in any case in which they would not be allowed to limit treatment without the new laws, then in some instances of that type of case mistakes will be made, treatment

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Dialogue

Defining Death Is Dangerous But Needed

Dr. McCarthy De Mere is a Memphis surgeon who holds a law degree and teaches law. As chairman of the Law and Medicine Committee of the American Bar Association he led that committee in a two-and-one-half year search for a

(Continued from Page 1)

Court decision will be coming out of it.

Riley: If I'm not mistaken some of the euthanasia people are already preparing to bring a case before the Supreme Court.

De Mere: Yes. They were ready to do that several years ago. What they wanted was to incorporate the "cognitive" and "sapient" features into a definition of death. In other words, if a person's brain was not active, he was no longer a person, and could be declared legally dead. It would not be homicide then to do away

Now the reasons for it. In law we have cases where individuals have simultaneous death. For instance, a husband and wife are in an automobile struck by a train and one of them lives a few seconds longer than the other, then all of the funds from the estate of both would go to whichever one supposedly lived longer. Now it's absolutely necessary to have a definition of death in order to say which one was dead and which wasn't. We've had some very silly cases. One in Colorado where a husband and wife were in an automobile accident and his body was torn into many pieces and there was no question but he died in-

Dialogue

Defining Death Perilous, but Needed

That definition is fairly simple. It says that for all legal purposes, a human body with irreversible cessation of total brain function, according to usual customary standards of medical practice, shall be considered dead.

Riley: How has this ABA definition fared in the state legislatures?

De Mere: Five states have

Riley: What's wrong with it?

De Mere: Take the name. It's called Uniform Brain Death Act. Well, the act itself is not describing what is brain death, so that's deceptive. It's not a good name. It is not describing brain death at all. What they are doing is giving a definition of death but they're more or less going in the back door.

Riley: What would you have

The next words are: "with irreversible cessation of all functioning of the brain." Now this is the most tricky part of the whole act because it's so close to the American Bar Association's definition of death. Ours is "irreversible cessation of total brain function," and this is "cessation of all functioning of the brain."

Riley: Is there any difference?

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Dialogue

Perfecting A Definition Of Death

Dr. McCarthy DeMere, who led the Law and Medicine Committee of the American Bar Association in perfecting a definition of death, continues his explanation of why the ABA definition of death is euthanasia-proof. He contrasts the ABA definition of death with the definition proposed by the National Conference of Commissioners on Uniform State Laws, which he holds was shaped by those favoring euthanasia.

Riley: The "Uniform Brain Death Act" proposed by the National Conference of Commissioners defines death as "irreversible cessation of all functioning of the brain." The definition your committee of the American Bar Association came up with defined death as "irreversible

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cessation of total brain function." The difference between the two seems microscopic, but you think it's the difference between life and death.

De Mere: Let me make a comparison with an army. The function of an army is not primarily to fight. The function of an army is to be able to live, to exist. Its secondary function, down the line, is to be able to fight. An army can be in the field simply camped and not fighting, and not doing anything.

Riley: But it still fulfills its function?

De Mere: That's right. It has function because it's alive.

Riley: It frightens off an aggressor, for example?

De Mere: Well, it might not do that. It's just existing. If an army has been defeated and there are only a few soldiers scattered here and there, it no longer exists as an army. That's what we're trying to explain about the brain.

Another example: if you have an anesthetic, you lose all functioning of the brain. You don't feel, you don't see, smell, remember, taste or anything.

Riley: But you breathe.

De Mere: Well, you may not. Most anesthetics knock out the breathing center. But none of the cells are dead. The whole organ is alive so we have brain function, but we don't have functioning of the brain. There's the difference, and this is hard to explain. But think: Under an anesthetic, there is no functioning of the brain, but there is brain function.

Riley: Could we put it this way? When you have a total anesthetic, one that knocks out the functioning of the respiratory system and the functioning of the circulatory system—can it do such a thing, by the way?

De Mere: It's all dependent on the brain. You can stop it all.

Riley: Suppose you have such an anesthetic that halts all of the functioning of the various brain functions. The functions remain but they happen not to be functioning. Does that make sense?

De Mere: Well, yes. I think we need semantics that would explain it better and perhaps you or someone could come up with something better than *brain function,* because the words are too close and that makes it very dangerous. What we came up with was "total brain function." It was understood at that time, and the judges have understood, that when the brain is completely out, irreversibly so, and never able to function again as an organ, then this is death. But you could have all of your brain functions out and say they're not going to return, and the individual would not be dead. Even your respiratory center, as in polio, could be out.

Riley: The circulatory?

De Mere: The circulation is dependent on the brain. The heart only has intrinsic ability to beat for a few minutes after the brain has ceased. This is another confusing part. This physiology is difficult for people to understand. The lungs are completely dependent on the brain stem. There's no way for the lungs to work at all without the brain stem being active. The heart will not beat very long without stimulation from the brain and by that not very long, we usually say from 6 to 15 minutes would be the longest that any heart could beat and most of the time, it's very quick-within a few seconds, so we have a tricky situation.

If it were simple, we would long ago have had a good definition of death into the law. They've been trying for 80 years to come up with the semantics of a good definition of death. Black's Law Dictionary still quotes the 1906 definition of death which is the cessation of respiration and heartbeat and circulation. A lot of people say this is traditional and this is what we want to diagnose death by. But here we're separating definition from determination. It's

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Dialogue

The Definition Of Death and Euthanasia

Dr. McCarthy DeMere, who is both a surgeon and a lawyer, tries to explain to the Editor why Right to Life forces in the United States seem indifferent to the prospect that a dangerous definition of death will win approval of the American Bar Association's House of Delegates in Atlanta within less than three weeks. He explains why this definition of death could institutionalize euthanasia in this country. Dr. DeMere led a committee of the ABA in perfecting the definition of death which at present holds ABA approval.

Riley: Doctor, your prophecy that euthanasia is around the corner takes a certain strength from your prophecy years ago that abortion was on its way.

DeMere: It was no harder to see abortion coming than it is to see euthanasia coming today. If you're working in this field of legal medicine, the people with special interests are frank enough to tell you what they're going to do. Many years ago there were a great number of people working for legalized abortion and they made no secret about it. They went to all the medical societies and asked for resolutions.

Riley: Are the euthanasiasts making a secret about it?

DeMere: No secret about

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this, absolutely not! And they are working very strongly for the Right to Die laws, the Living Will.

Riley: Do they state clearly and unequivocally and publicly that they are working for the day when a retarded child can be put to sleep permanently by euthanasia?

DeMere: Let's put it this way: They have had people on their programs who have told about the birth of a retarded child and putting him over in the corner and not resuscitating him; they have praised these people. This is happening right now without any special law to cover it, in some of the largest medical centers in the country.

Riley: At Yale it was publicized.

DeMere: That's right, and at John Hopkins. They've been on programs, sure. Recently there was a national case where the doctor said the child was dead before he touched her. He had attempted an abortion and the nurse saw activity in the child. I'm not passing judgment on this. I'm just going by the testimony that was reported in the paper. The nurse saw activity and she said he went over and placed his fingers on the baby's neck and then the pathologist later said the child had bruises on the neck but the doctor said this child was dead before he touched her.

Riley: A new trial has been ordered for this doctor because there was a hung jury. At one point, the jury seemed to be in agreement, but it fell into a deadlock when the judge called the jurors back into the court after eight days of deliberation and told them they had to go by a new definition of death. That there can be a death if a person has suffered a total and irreversible cessation of brain function. They were confused by that because their earlier instructions were that death is the disappearance of all vital functions. They couldn't determine whether the brain had ceased to function or not. For that reason they couldn't determine if there had been a murder.

DeMere: The problem there was that the judge didn't charge them as to what the definition of death is, and the determination of death is. It's very simple in that case. If they had had the ABA definition — they called me on that case, by the way and I talked to them over the phone — that doctor, in order to have fulfilled that definition would have had to use the *usual and customary* standards of medical practice. That would have been the test. Did he look at the baby's pupils? Did he test the reflexes? Did he check the heart and the lungs? Was the baby moving? You have to have brain function to be able to have any movement unless it is just muscle spasm.

Riley: The baby was moving, according to testimony.

DeMere: This just points up that we do need a good definition of death. I think the present American Bar Association policy is fine, with a slight commentary as to the difference between *brain functions* and *brain functioning*. The Uniform Law Commission could have developed this, but they had advice from special interests, from the Right to Die people and people who are very closely associated with them.

Riley: What is the present American Bar Association definition of death?

DeMere: "For all legal purposes, a human body (we don't say person and we don't

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The Definition of Death

An uncanny and alarming resemblance has arisen between the present and the months immediately proceding the Supreme Court's disastrous *Roe* and *Doe* decisions on abortion. Now, as six years ago, activists aiming to subvert the legal safeguards of human life are working quietly but with deadly efficiency to present the nation with a *fait accompli*. Now, as then, to halt them would be child's play compared with the herculean effort required to dislodge them once they have reached their goal. Now, as then, the very men and women destined to take up that herculean task in defense of life are strangely blind to what is impending.

Of course it is the enemies of human dignity who, despite their astuteness, are shortsighted. Never in history has the myopia of materialism been less justified. The seemingly limitless achievements of physical science have had the paradoxical effect of marking off its limits in stark bold lines. Only materialists can be surprised to learn that science cannot do everything, for the limits of physical science coincide with the limits of matter. In fact materialists dare not learn this lesson lest they unlearn their materialism. Maybe that is why they strive so desperately to solve more and more ethical problems with more and more materialistic solutions.

Militant materialism's most spectacular victory has been won in that field where law and medicine meet. It is the legalization of abortion. It has succeeded in demoting the child to a nonperson, and in so doing has corroded the very concept of person.

Now if materialism ever succeeds in banishing the person from our understanding, it will exercise the only palpable manifestation of spirit in the universe. On a deeper level it will destroy the notion of God Himself, for if God is not personal He is nothing at all.

So the final triumph of materialism, which is the defeat of God, can be achieved by destroying the notion of person root and branch. On the materialists' list of proscribed persons the unborn child was only the first victim. Fortunately for their strategy, that outrage against the most innocent and helpless of persons is so monstrous that it blocks a clear vision of their present maneuvers. Moreover, the struggle against the evil of abortion tends to engross the minds and energies of those engaged in it. Finally, prolifers have acquired a healthy suspicion of the dubious prolife causes which some try to thrust upon them, such as gun control and the abolition of capital punishment.

The net effect is that prolifers are overlooking this latest materialist assault on the human person. It is an attempt to change the law's definition of death into a warrant to kill.

This bold attempt is likely to succeed not only because prolifers are too little concerned about it. There are two further reasons why it seems headed for success (hence why the nation seems headed for a new disaster). One is that the booby-trapped definition of death proposed by the advocates of euthanasia is deceptively like the tamper-proof definition of death proposed by the Medicine and Law Committee of the American Bar Association; only the closest study of the two will reveal the vital (or lethal) differences. The other reason is that most students of the problem of defining death agree that a new definition of death is needed. The definition provided by the Common Law and much of statutory law no longer fits the medical realities.

The present Common Law definition of death holds that death is the total stoppage of spontaneous respiratory and cardiac function. This definition no longer fits the medical realities. With modern medical and surgical techniques, breathing and heartbeat can be halted for hours. Moreover a person whose spontaneous breathing and circulation have ceased can be sustained indefinitely by modern machines.

This technological ability to keep a patient's heart and lungs working raises the question of whether that patient is truly alive. In some cases there can be no doubt. A person, for example, whose respiration and heartbeat both depend upon machines may be able to talk and even to walk. Obviously such a person is not dead (and obviously the Common Law criterion of death is inapplicable). Here the machines clearly sustain life, and not just certain physiological functions. But where a patient supported by such machines is in a deep coma, is he or she truly alive?

We think the question is resolved by the ABA definition of death. The ABA definition states: "For all legal purposes a human body with irreversible cessation of total brain function, according to the usual and customary standards of medical practice, shall be considered dead."

This definition has been explained in the pages of the Register (Jan. 7, 14 and 21) by Dr. McCarthy DeMere, the Memphis lawyer-surgeon who led the ABA's Medicine and Law Committee in its two and one-half year search for a definition. Dr. DeMere also pointed to dangers in a rival definition proposed by the National Conference of Commissioners on Uniform State Laws.

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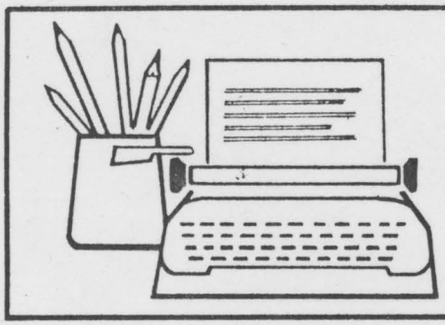

Letters

Euthanasia Can Be Prevented

Dear Editor:

I thank the *National Catholic Register* for calling attention to the terrible dangers of a poor definition of death. America could become a euthanasia society overnight, just as it became an abortion society overnight. A few dedicated people are working quietly for this, and success is almost presented to the American Bar Association's House of Delegates at its meeting in Atlanta, beginning Feb. 8. If the ABA delegates accept this definition of death, it will supplant the ABA definition of death which was approved by ABA delegates in 1975, and which is the result of more than two years of study by the ABA's Law

ABA House of Delegates in Atlanta, meeting in a few weeks. They can be stopped fairly easily provided enough people act now. They need not be many people. They need not be "important" people. They need not even do very much. But they must do it right away.

TESTIMONY OF DR. FRED MECKLENBURG TO THE SENATE JUDICIARY SUBCOMMITTEE ON THE SUBJECT OF BRAIN DEATH

During the past year I have served on an Ad Hoc committee of the Minnesota State Medical Association which is studying the problem of brain death and related issues.

Over the past several years I have testified on several occasions in these halls in support of the pro-life viewpoint on various legislative issues. It is somewhat paradoxical to find myself testifying before this Senate subcommittee in support of a bill which many of my friends in the pro-life movement have taken opposition to.

This situation is not unique, however. Two years ago I found that my testimony in support of family planning legislation was also contrary to the testimony of some in the pro-life ranks. The fact of the matter is that the prevention of pregnancy and the termination of fetal life are two very different issues. They need not be either supported or rejected as a "package deal".

Similarly the issues of brain death and euthanasia are two closely related issues that are frequently confused by many as part and parcel of the same problem. From my perspective as a Protestant physician, I find relatively little difficulty in separating the two. Let me state clearly that I am strongly opposed to acts which would speed the death of living human beings, so-called euthansia or mercy killing. I am also firmly opposed to acts which would needlessly prolong the dying process and thereby prolong the pain and suffering of hopelessly ill patients who wish not to have their suffering prolonged.

But neither of these theoretical situations need enter into a discussion of brain death, since the patients to be affected by such legislation are not

patients who are suffering or in pain, but patients in whom death of the cells of the central nervous system has already occurred. For them the perception of pain is impossible, as is all other perception or feeling, be it pleasure, love or any other simple or abstract thought process.

Death is not an instantaneous process. Physicians through the ages in their struggle to save lives have recognized that certain tissues of the body can die without resulting in the inevitable death of the whole patient. Amputation of dead and necrotic digits or limbs and the removal of gangrenous organs can indeed be life saving procedures in patients who would surely die if left untreated. There are even some tissues like the liver which have the ability to regenerate if proper support and nutrition are provided to the critically ill patient.

Unfortunately, the brain is not such an organ. As brain cells die they are never regenerated or replaced. In a patient in whom the brain is dead, death of the remainder of the body's tissues is predictable in a very short span of time unless there is outside interference.

Modern technology has allowed physicians to intercede in very dramatic ways to halt the rapid advance of many disease processes. Often they are stopped precariously close to the irretrievable point with patients deeply comatose or in a cardiac standstill. Yet they are still salvagable by skilled and caring technicians using potent drugs and electronic devices undreamed of a few short years ago. In utilizing these near-miraculous tools an occasional patient is caught in the process of dying at the tragic point where the death of the brain has actually proceeded to a stage where recovery is not possible, and the brain tissue simply dies. Recognition of this state is not immediate or simple. Indeed it requires certain skilled observations over a period of time in order to be absolutely certain that the condition of brain death exists.

Perhaps advances in technology will someday make the diagnosis and confirmation of brain death somewhat simpler and faster, but simple physical examinations and confirmatory tests can now be done which will give an unerringly accurate diagnosis of the state of brain death. And when these conditions exist, no one has ever recovered. In fact, none of these patients' tissues can exist without continuous mechanical support to provide oxygen and circulation of blood, so called respirators.

I can claim no expertise in the areas of religious doctrine or ethical theory. The guiding principle of my personal morality has always been simply a reverence for human life and a profound respect for the human body. I feel greatly privileged as a physician to have had the opportunity to share in the treatment of disease and the alleviation of physical and emotional suffering. I am proud of the role which physicians have been allowed to play.

I am not proud of those branches of medical science which have abused and desecrated the human body, supposedly in the quest of medical knowledge. I am speaking now of human experimentation on unwilling subjects and aborted fetuses, ~~and fresh cadavers~~, that has been and continues to be promoted by certain enthusiastic investigators.

The needless continued expansion of the lungs and forced circulation of the blood in patients who have passed the point of no return in the dying process which is called "brain death" approaches very close to such practices. I find it both disrespectful to the human body and an exercise in futility.

In the absence of legal recognition of the concept of brain death, however, the specter of increasing numbers of oxygenated tissue preparations filling up Intensive Care units and tying up scarce resuscitative equipment and personnel is all too probable. Obviously, such a theoretical situation would prevent the use of those skills and devices from being applied to the salvagable critically ill.

How tragic the situation, where fear of legal reprisals and sanctions can prevent ~~the~~ physicians from applying their skills where some hope of benefit exists, and where scarce medical facilities are tied up in the hopeless task of supporting a collection of still viable muscle, skin and gland tissues which inevitably must progress to death of the entire organism.

In summary, it is simply <u>because</u> of my respect for human life that I feel the concept of brain death should be legalized, and that I have chosen to appear and testify before you in support of the bill.

Testimony given at the February 28, 1977 hearing of the Senate Judiciary Committee, State of Minnesota, in opposition to Senate File No. 253

Mr. Chairman and Members of the Committee:

My name is William Coughlin Hunt. I am a Roman Catholic priest and Director of the Newman Center at the University of Minnesota, Minneapolis/St. Paul Campus. I am on the Board of Directors of Minnesota Citizens Concerned for Life and American Citizens Concerned for Life. However, I am speaking on my own behalf in opposition to Senate File No. 253.

By its very nature legislation which attempts to define human death raises serious questions. Human death, like human life, is a profound mystery. Moreover, dying is a process, and there is no religious or philosophical consensus about the moment of death, the criteria for determining death, or even that there is such a thing as a moment of death.

Legislation which attempted to settle the issue in either the philosophical or the religious sense would not be acceptable. To define death in philosophical terms would presume knowledge of what it is in every case to be alive. To define death in religious terms would be an unconstitutional invasion of State power into the religious sphere.

Accordingly, in our American society the determination of death has been very pragmatic. It has been handled without laws to determine either the fact or the criteria of death, and the decision has been entrusted to a government official who is not necessarily a physician - the coroner. Until recently, there has been no attempt to determine in law the exact moment of death. Rather, there has been general societal agreement that at certain

stages in the dying process certain things can be done to the dying person or corpse, things such as to bury, to cremate, to embalm, or to use organs for humanitarian or research purposes.

All of this has been possible within our present social-legal system without a definition of death. This raises the question: who will benefit from legislation defining death? What need is there for such legislation?

Will it benefit relatives of the dying person and the society at large burdened with the care of the dying person? One might argue that if there were a precise definition of total brain death they would be spared the agonizing ethical decision about withdrawing extraordinary life support measures. In response, the proposed legislation does not affect that issue. The decision to withdraw extraordinary life support measures is only problematic prior to total brain death. At the present time it would not be a problem were it possible to demonstrate total and irreversable loss of brain function. Consequently, legislation is not needed to benefit this group of people.

Will it benefit the recipient of an organ from the dying person? This is already adequately taken care of by the Uniform Anatomical Gift Act. Further legislation is not needed.

Will it benefit physicians and other health personnel attending the dying person and potentially subject to malpractice suits? Possibly, it would to some extent. However, the total malpractice problem will not be affected substantially by the legislation in question. It is a much deeper and more pervasive problem that should be dealt with directly rather than piecemeal through this kind of legislation.

Finally, will it benefit the dying person? In my estimation,

this is the only question that is really pertinent. To pass legislation affecting the dying person for the benefit of any other person or group of people would be contrary to our entire legal tradition which safeguards the dignity of the human person.

From this perspective it escapes me how defining a dying person's death can in any sense be construed as a benefit to the dying person himself or herself. It is one thing to face the fact that we all must die and not to resist death at all costs. If we see dying as part of human life we will strive to make provisions for it to be as dignified as possible. It is quite another thing to remove the dying person from humanity by way of a legal definition. Certainly our experience with Blacks and Native Americans, if not our experience with unborn children, should make us extremely wary of definitional dehumanization in any form.

Furthermore, I am not very comfortable with the notion of brain death. As Hans Jonas and others have pointed out, it seems to be a revival of cartesian dualism. Instead of the body-soul split, the ghost in the machine, we now are dealing with a division between the brain and the rest of the body. I am not prepared to admit that a human being is basically a brain with appendages.

Also, it seems to me that the notion of brain death fits in too neatly with other attempts to standardize and quantify human beings which have had such devastating effects in our technological society.

In conclusion, I am opposed to brain death legislation such as S.F. 253 until such time as it can be clearly shown that it will benefit the dying person and not further undermine respect for the dignity of the human person.

Life NOTES

"If a man loses reverence for any part of life, he will lost reverence for all of life."
Albert Schweitzer

MISSOURI CITIZENS FOR LIFE WESTERN REGION (816) 444-4211
P.O. BOX 8238 KANSAS CITY, MO. 64105 APRIL 1977

LETTER FROM A FRIEND - March, 1977

Dear Workers for Unborn Children,

This past New Year's Eve was a very special one for us. It was the day God blessed us with an 8lb. 12 oz. baby boy. We couldn't possibly have rang in the New Year in a better way! But if the people at Planned Parenthood in Independence had had their way, that precious little life lying asleep in his crib right now would not be here. He would have been part of some discarded trash months ago.

It all started back in April when I walked into their clinic with a small bottle of urine) and stated that I wanted a pregnancy test. The young girl at the desk took the bottle, and asked if I wanted to be pregnant. Without thinking, and truthfully not wanting to be pregnant, I answered a quick "no". She jotted that down on a form paper in which she had also taken my name & address. She said it would take a few minutes before the nurse in charge could see me and analyze the urine. While I was sitting there waiting, a few other girls came in. The girl asked each one the same question, "Do you want to be pregnant"? Two of them said no, and stated that if they were pregnant, they didn't want to have the baby. She referred them to the Kansas City Planned Parenthood Clinic, where she said they could talk to a counselor and obtain an abortion.

My name was called, and I was guided into the back room where they do the tests. The nurse in charge of the clinic looked at my paper and said, "It says here that you don't want to be pregnant. If you are, do you want an abortion"? I was shocked at her attitude - how she said that so cooly, as of she was asking me what I wanted for dinner! I answered, "No! Just because I don't want to be pregnant doesn't mean I want to kill the baby if I am!"

Then while she was working on the test, she asked me what means I had been using to protect myself from pregnancy. I told her I'd been using the pill, but stopped it because of bad effects it was having on me. Also that my husband & I didn't trust the chemical makeup of the pill. She was obviously very disturbed by that comment because she immediately stopped what she was doing and demanded, "Who's body is it, yours or his?" Your the one who has to suffer the consequences if you get pregnant!" I made a brief statement or two on behalf of my husband, then shut-up because I suddenly realized my life was none of her business. All I was there for was a simple pregnancy test: not advice, or prejudicial statements in favor of women's lib!

She then said it was positive, and started telling me how quick and easy it was to get an abortion at the Planned Parenthood Clinic in Kansas City. She said, "Your can get an abortion very easily right there at the clinic if you get it before 10 weeks, and after that you can still get one, but it's a little more trouble because you have to go to the hospital". I walked out, and as I was leaving, she called to me saying, "Remember if you change your mind about the abortion, just call us at the K.C. Clinic."

The new Planned Parenthood Clinic and abortion referal service is trying to locate in the Truman Cornors Shopping Center. If you shop there, let the Merchants know how you feel. If they think they'll loose business, you'll see some action.

DID YOU KNOW If a girl under 16 goes to P.P. for an abortion, she can get one if accompanied by anyone over 21. If she has no "adult" companion or parental permission, she's sent to Kansas.

Many parents do bring their daughters in themselves. There ought to be a law against that kind of Child Abuse!

YOUTH NEWS

Kansas City Youth Pro-Life Coalition (KCYPLC) hosted its first, and probably not its last, Volley Ball Tournament. Twenty-four teams participated; the winners were The Hummers (an "adult" team - how humiliating). The event was held March 26-27 at O'Hara Gym. Total proceeds were $273 which will be split with Birthright (an organization offering positive alterna[illegible]s to abortion) and KCYPLC educational programs. The group plans more FU[illegible]ing events in the future. If you're young in body or spirit and would [illegible] KCYPLC, call Margie Despain 524-6677

Don't lock definition of death into state law

By NANCY KOSTER
Vice-president
Minnesota Citizens Concerned for Life

10-24-77

A Guest Column

The Minnesota Legislature, like counterparts around the country, has been asked to consider legislation defining death as irreversible cessation of total brain function. Is such legislation necessary, and what are its potential drawbacks?

Minnesota, like most other states, has never defined death by statute. The judgment of when a human being has died is left to physicians, who rely on standards

against transplanting organs when the donor has freely consented to the gift, it is questionable whether a death definition law should be written for the benefit of the donee rather than the donor. Such an approach demeans the dying, viewing them not as persons to be treated with re-

(Harper's, Sept. 1974), has coined a whole new vocabulary for this situation. He predicts a future population of "neomorts" maintained by machines in a "bioemporium" for such purposes. He says they could also be used as "manufacturing units" to produce needed substances like blood, hormones and antibodies. Gaylin says laws then could be further "refined" to define death as cessation of cortical function rather than total brain function. This can be done, he says, if "we are prepared to separate the concept of 'aliveness' from 'personhood' in the adult as we have

Memo re: death definition legislation
From MCCL Legal Advisory Committee

At this time MCCL opposes any legislation which attempts to define death. This issue is basically a legal rather than a medical question. The usual purpose advanced for enacting such legislation is to have the law recognize the concept of "brain death." However, the law already does recognize this concept.

The courts have always relied upon the testimony of doctors to determine when death has occured, and they will not allow a doctor to determine the time of death by anything other than current criteria generally accepted by the medical profession. Current medically accepted criteria for determing the occurrence of death already include the concept of brain death. Thus, the primary purpose of the legislation has been accomplished and the legislation is unnecessary.

It is also argued that such legislation is needed to facilitate the transplant of organs. Organs removed immediately after death have a better transplant success rate. However, authors of the Uniform Anatomical Gift Act, in effect in at least 48 states including Minnesota, have recommended that determination of death be left to doctors in individual cases and not written into law.

Some have also argued that doctors fear civil and criminal liability in using the brain death concept. This fear is unfounded since the law has been protecting them adequately. No court has ever held a doctor responsible for any wrongdoing in using the brain death concept.

Would legislation defining death be dangerous? Any legislation which attempts to define death has inherent dangers. Once legislation is enacted, courts must interpret it and be guided by it rather than ny currently accepted medical criteria. For esample, suppose that thirty years ago the legislature had defined death as the cessation of cardiac and respiratory function. Under these circumstances, the concept of "brain death" would now be illegal even though the medical profession recognizes it. The same problem may exist thirty years from now in another context if death is "defined" in the law.

In addition, because of the broad and general wording of proposed legislation, a real danger exists that courts will make wrong but permissible interpretations. For example, laws speaking of brain function might comceivably be interpreted to equate "function" with the ability to be aware or to communicate.

Several states have enacted death definations. The subject of death is of obvious and tremendous importance. Minnesota can certainly wait until the courts of other states have interpreted their legislation. Clearly, there is no need to legislate now.

IN GENERAL, BRAIN DEATH LEGISLATION IS NOT WARRANTED BECAUSE:

(1.) The law already allows the use of the "brain death" concept.

(2.) The law is adequately protecting doctors utilizing brain death from either civil or criminal liability.

(3.) Legislating brain death could permit undesirable court interpretations which are not now permissible.

(4.) A number of states passing different statutes defining death could prompt the Supreme Court to take the matter into its own hands, as it did in the abortion issue.

(5.) Death definition legislation is aimed at benefiting doctors, not patients. Such legislation views the dying patient primarily as a source of transplant organs instead of as an individual human being experiencing the dying process, with dignity and worth in and of himself. There is no death definition statute on the books now and doctrines have managed to treat dying patients satisfactorily while still providing for the needs of patients needing organ transplants.

(6.) While accepting the concept of brain death, the American Medical Association has consistently opposed legislation defining it.

(7.) There is no need to rush into enacting a law on such a complex and important issue until the courts have interpreted legislation promulgated by other states.

THE BILL NOW BEING CONSIDERED BY THE MINNESOTA LEGISLATURE IS UNDESIRABLE BECAUSE:

(1.) It could be dangerous to say that a "person" is legally dead under any standards. Is there a difference between a "person" and a "human being"? In ordinary usage the two are synonymous, but we have seen what the Supreme Court said about personhood in the abortion decisions. If, according to the Court, it is possible for a human being (unborn child) to be excluded from the "person" category, the courts could interpret this law to mean that an individual's "personhood" dies at a time other than when his or her body dies.

(2.) The proposal says a person is "legally dead" under certain circumstances. Is there a difference between "legal death" and "medical death"? Isn't death one objective phenomenon, or can someone be legally dead and still medically alive?

(3.) The bill provides that other criteria can also be used to determine death, but it doesn't say what they are. It doesn't even say they must be generally accepted by the medical community. It also allows brain death to be the only criterion used to determine death, whereas doctors now usually measure death by a combination of criteria.

(4.) Minnesota is the first state to consider this exact wording for a death definition statute. There are no precedents to be used in judging it.

DEFINITION OF DEATH ACT

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. A person is legally dead if there is irreversible cessation of the function of the entire brain. Nothing in this section shall be construed to prohibit the use of other criteria for determining death.

S.F. 253 Authors:
Jack Davis, Dist. 60
Frank Knoll, Dist. 61
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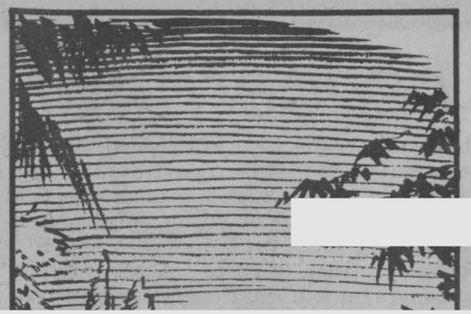
Know Your Faith

We need Christian perspective on death

By THE REV.
ALFRED McBRIDE, O. PRAEM.
Director, National Forum
of Religious Education



The world is full of people with death wishes and death denials. The suicide rates dramatize the rising number of death wishers. The frantic race for material goods and cosmetic beauty points the finger at the death deniers. Death wishers want to tear the world around them down to the ground. They

aware that death will come to claim Him one day. He simply expects it and counts it as part of His future. To Mary at Cana he says, "My hour — that is my death — is not yet here."

The younger we are, of course, the less we think that death will happen to us or have an effect upon our present [illegible]or. But that is only at the conscious level. The built-in intimation of death haunts everyone's subconscious and works upon one's motivations. It can

Radio-TV log

"The Cuban Connection" is the subject of this week's "Concern" program at 7:30 a.m. Sunday on WTCN-TV, Ch. 11.

Bower Hawthorne, president of the Greater Minneapolis Chamber of Commerce, one of several Minneapolis businessmen who recently visited Cuba, will discuss trade relations.

Other programs of special interest to Catholics include:

------Clip and Save------

SUNDAY

5:00-5:15 a.m. The Christophers	WAYL (FM)	93.7
5:15-5:30 a.m. Sacred Heart Program	WAYL (FM)	93.7
5:30 a.m. Moments from the Bible	WCCO	830
5:30-6:00 a.m. Grand Old Gospel Hour	WWTC	1280
5:45-6:00 a.m. Christopher Close-up	KSTP (FM)	95
6:30-7:00 a.m. Sacred Heart Program	KDWA	1460