

of Senator Chambers.

SENATOR CHAMBERS: Yes, Senator Dworak.

SENATOR DWORAK: Senator Chambers, as I understand your amendment, the definition of viability was set forth in the Roe v. Wade case. Then it was also discussed in the Danforth case and finally discussed in the Colautti case and now the definition of viability that you are presenting is the definition of the Colautti case. Am I correct in that?

SENATOR CHAMBERS: Yes, that is where I got that language from.

SENATOR DWORAK: Senator Chambers, I do not have the legal background or in fact then, you are saying that the definition of viability is put out by the Supreme Court in Roe v. Wade contrary to that definition in Colautti?

SENATOR CHAMBERS: I am saying that the Supreme Court has altered its position from the Roe against Wade decision and the Chief Justice's dissent is based on that very point and let me read you a little language from the Colautti case so you will see what I am saying. "The court rejected that argument, repeated the Roe definition of viability and observed again that viability is a matter of medical judgement, skill and technical ability and we preserved in Roe the flexibility of the term." The court also rejected a contention that "a specified number of weeks in pregnancy must be fixed by statute as the point of viability". Then here is a longer quote: "In any event we agree with the District Court that it is not the proper function of the Legislature or the courts to place viability which essentially is a medical concept at a specific point in the gestation period. The time when viability is achieved may vary with each pregnancy and the determination of whether a particular fetus is viable is and must be a matter for the judgement of the responsible attending physician." Here is the court's own language in the Colautti case. In these three cases then this court has stressed viability, has declared its determination to be a matter for medical judgement and has recognized that differing legal consequences ensue upon the near and far sides of that point in the human gestation period. We affirm these principles. Now here is the language: "Viability is reached when in the judgement of the attending physician on the particular facts of the case before him there is a reasonable likelihood of the fetus' sustained survival