

SENATOR CHAMBERS: Okay. Now let's start at the second sentence so we can get right down to this definition that you say comes from Roe. We simply observe that in the medical and scientific communities a fetus is considered viable if it is "potentially able to live outside the mother's womb albeit with artificial aid", and you stopped there, but here is what the court said, "we added" three pages further on, "we added that there must be a potentiality of meaningful life, not merely momentary survival." So the court in telling what it meant in its definition of Roe tells you that it is a potentially able to live outside the womb, then added, there must be a potentiality of meaningful life which is not included in your amendment but I say again, or in the statute, if you want to keep it shaky, if you want to operate under the fallacious impression that your definition comports with what the Supreme Court said in Roe against Wade, I direct your attention again when I sit down to the language I read and you can study it. The court is telling you what it added to those words so that issues which are being noised or brought in the land today can be put to rest. There must be a potentiality of meaningful life and in Berger's dissent in the Colautti case he stated that there is a great difference between potentiality to survive and actually being able to survive, that potentiality of survival occurs much earlier in the gestation period than the actual power to survive so the issue of viability was discussed in the majority opinion and in Berger's dissenting opinion but I say again, if you are going to hang your hat on that proposition, you are welcome to do so but if it is found to be too vague for certain other portions of this law, remember, Senator Dworak, the term, viability, appears elsewhere in this law and when that definition...

SENATOR MARSH: One minute.

SENATOR CHAMBERS: ...is incorporated into other portions of the statute that impose criminal liability then problems with the definition arise. And for those who would like to know where viability can be found, on page 2, lines 12 and 13; page 3, line 3; page 5, line 24; and on page 6 you will see the word viable at line 6 and line 19. Now you can do again I say, what you want to with it, but you have to incorporate that amendment into other provisions of the statute. If the definition is too vague then you are in trouble again.

SENATOR MARSH: Senator Hoagland.