

SENATOR FOWLER: I think Senator Chambers has drawn a very crucial point when he talked about what sections of the law contain the term, viability, because if in fact we do not incorporate the more recent decision on viability, those are the ones that are going to be thrown out. When we talk about viability we are talking about the last stages of pregnancy, the most crucial stages and those that I think are of greatest concern both to the Supreme Court and to those of us in the Legislature. It is at this point that an abortion is performed only with the gravest medical consequences. Earlier abortions are much safer but as the pregnancy grows, it gets later, then more critical state interests enter in and that is what the Supreme Court has said. But if we refuse to recognize this Supreme Court decision and the Supreme Court definition on viability, we will be throwing out those most crucial sections that we have the gravest concern about and those are the ones then that the court would enjoin and those are the ones then it would not be possible in the State of Nebraska to enforce, and then we would be putting the pregnant woman in the greatest jeopardy and we would be denying further rights to the fetus, those that are closest to pregnancy. I think for that reason those of you who are most concerned about this issue should look carefully at the course that Senator Labeledz and Senator DeCamp are suggesting because I think it is very dangerous and it will throw out in effect the sections that I think you would most want to protect. Now the argument that this is not a unanimous decision is much like saying that a law that this Legislature passes is not in effect because all forty nine of us did not vote for it. It has sufficient force that a majority of the Supreme Court agreed with it and that makes it the binding law of the land and that is what we must follow. The refusal by this Legislature to recognize that principle is what constantly gets us into trouble on this issue and constantly brings it back around. If we do not recognize the decision of the majority of the Supreme Court on this question we will have again an abortion statute that is unconstitutional and the sections that are unconstitutional are those that I would think, whether you are concerned about the fetus or whether you are concerned about the mother, they are the sections that we as legislators should be most concerned about. I think they are the ones that we should be concerned about putting in constitutional jeopardy. So I think Senator Johnson's amendment should be adopted and then I think Senator Chambers' amendment should be adopted, and then I think we can address the other constitutional questions that Senator DeCamp resolves in his amendments.