

the right to make a living will. And I think, I hope that you've been in touch with your district because I can't help but believe having noticed the kinds of people in my district that are in favor of this, that we would be very much putting ourselves back in tune with the people to lay out for them this right which in fact exists by virtue of the decision of the United States Supreme Court in the matter of the Cruzan case and I just wanted to go back and read a couple of things out of the Cruzan case to give you a flavor of what the debate should be all about today and hopefully give you some structure in which to think about the decisions that we need to make on this particular issue. The court in Cruzan, they basically came out and said that a competent person has a liberty interest under the due process clause in refusing unwanted medical treatment. That's the basic fundamental constitutional law. There is a liberty interest in having the right to refuse unwanted medical treatment, but in having said that, the court also said that the State of Missouri, and by virtue of having said that of course, they are saying that all states, the State of Nebraska has a general interest in the protection and preservation of human life and that states may legitimately seek to safeguard the personal element of an individual's choice between life and death. And the state is also entitled to guard against potential abuses by surrogates who may not act to protect the patient. So here is the picture of what we have. The Constitution says you can make a living will. The Constitution hasn't quite said yet but strongly implies that you can do a power of attorney. The state has the right to make reasonable regulations. So I think that one thing we should avoid today is a discussion that we should do nothing because whether you approach this from a liberal or a conservative point of view, your interests ought to be in what state regulations are appropriate for this situation and not to avoid the question altogether because what is the consequence of doing nothing with regard to the living will? The consequence is that the courts of the State of Nebraska will be the lawmakers in this area. You know, parenthetically, I had an interesting discussion with somebody the other the other day. I asked them of the three branches of Nebraska government which is the most powerful? And that person replied, the Supreme Court, and you know the Supreme Court has taken a lot of power in recent times by virtue of their liberal construction of, for example, our personal property tax law, and that is one way they get power. But another way they get power, and another way the power leaves the people and goes into the hands of the trial lawyers who run the