



April 29, 2002

Senator Tim Johnson
United States Senate
Washington, D.C. 20510

Dear Senator Johnson

As you may be aware, the National Right to Life Committee (NRLC) has recently been sponsoring a radio ad in South Dakota in favor of the Brownback-Landrieu bill (S. 1899), in which it is stated, "So far, [Sen. Tim] Johnson has endorsed an awful bill that would allow the cloning of human embryos, and then send a woman to jail if she helps a single cloned embryo to survive!" This is, of course, a reference to your cosponsorship of S. 2076.

Both of the components of NRLC's characterization of S. 2076 are plainly accurate. There can be no reasonable dispute that somatic cell nuclear transfer, using human nuclear material, will produce a "human embryo." I am attaching a sampling of statements by scientific authorities on this point, which include the National Institutes of Health and the report on human cloning of President Clinton's bioethics advisory commission.

Senators choose the titles for their bills, and S. 2076 is formally titled the "Human Cloning Prohibition Act," but in fact S. 2076 does not prohibit human cloning. Rather, S. 2076 would, as we say in the ad, "allow the cloning of human embryos." Indeed, the bill would allow biotech firms to create what President Bush called human "embryo farms," in which human embryos would be cloned in great numbers, allowed to develop, and then killed in experiments.

The killing of human embryos in experimentation has already been made *illegal* in South Dakota. Moreover, in allowing the cloning of human embryos, S. 2076 embodies the exact approach that was strongly condemned by the South Dakota legislature in Senate Concurrent Resolution 13, approved in February by votes of 32 to 1 in the Senate and 63 to 4 in the House. That resolution urged the U.S. Senate to ban so-called "therapeutic cloning" by enacting the Brownback bill, S. 1899, which you have so far declined to endorse.

S. 2076, in contrast, does not prohibit the *creation* of human clones -- instead, it prohibits their later *survival*. Unlike the Brownback bill supported by President Bush -- which bans the creation of cloned human embryos -- S. 2076 is aimed explicitly at "the implantation of a conceptus, blastocyst, or embryo created through somatic cell nuclear transfer into the

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mammalian uterus. . . *for the purpose of creating a cloned human being.*” [emphasis added]. Thus, if S. 2076 were the governing law, human embryo farms could operate day and night to produce thousands or millions of cloned human embryos, but a woman who “helps a single cloned embryo to survive” by accepting or facilitating implantation of an embryo *for intended birth* would clearly face felony penalties under Section 3.

(We do not advocate undertaking human cloning for birth. We strongly support S. 1899, which would ban the very creation of cloned human embryos. Those who are primarily concerned with preventing the *birth* of human clones should embrace a ban on the creation of cloned human embryos as the only practical and ethical way to achieve that goal.)

Moreover, S. 2076 has still broader implications, which we wish to briefly sketch here. While these implications were not addressed in our current radio ad, they may well be addressed in future communications to the public; therefore, we hope you will consider them carefully to determine whether this bill really reflects your policy views.

Section 2 of S. 2076 defines three different activities as “human cloning procedures.” None of these include the actual process of creating a human clone by somatic cell nuclear transfer. But even the three (mis)defined “human cloning procedures” are permitted by Section 3 of the bill unless they are engaged in “for the purpose of creating a cloned human being.”

On October 21, 1999, you voted for the Harkin Amendment to endorse, in expansive terms, the Supreme Court’s ruling in *Roe v. Wade*. Most (but not all) supporters of *Roe v. Wade* do not consider the human fetus to be a “human being” until after *full live birth*. **S. 2076 quite conspicuously avoids incorporating any interpretation of the term “human being” other than live birth. Thus, on its face, S. 2076 would permit cloned human embryos to be implanted in uteruses (human or other), grown to various stages of development (even, for example, to the advanced stage of pregnancy at which partial-birth abortions are performed), and then aborted to provide developed organs, tissues, or cells for research or transplantation -- since none of that would have been done “for the purpose of creating a cloned *human being*.”**

Nor is it farfetched to believe that such things will be done, if the law allows it. Already, researchers have implanted a cloned cow embryo, grown that clone to the fetal stage, and then killed the clone to obtain developed kidney tissue. Moreover, in a recent experiment that was widely reported in the press as the first real breakthrough in “therapeutic cloning” in animals, the researchers found it necessary to develop a cloned mouse *to the newborn stage* before its stem cells were sufficiently developed to cure the original mouse’s immune system defect.

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Other analysts independently have reached the same conclusion regarding S. 2076. I am enclosing a copy of "An Analysis of S. 2076," prepared by attorneys at the International Center for Technology Assessment (which, incidentally, is not a pro-life group). I quote briefly from the ICTA analysis:

"S. 2076 strays far from the Senate's 'common ground' and is the most permissive piece of human cloning legislation introduced in the Senate. . . the legislation allows an implanted cloned embryo to develop inside a woman's uterus for an unspecified period of time. . . the legislation gives government approval and support to an industry in which human clones gestate for several months in surrogate mothers to be followed by voluntary abortion of such fetuses for use in research."

It appears that this ICTA analysis actually understates the case by repeatedly referring to S. 2076 as allowing implantation in "a woman's uterus." That is true, but under S. 2076, it would be equally permissible to implant a cloned human embryo in the uterus of a pig or an ape, or to develop such a clone with rapidly developing "artificial womb" technology -- so long as this is not done for the purpose of producing a live-born "human being." (See "The Pig-Man Cometh," by J. Bottum, *The Weekly Standard*, October 23, 2000.)

The title of S. 2076 is extremely misleading, and perhaps you were misled. Perhaps you did not know that you were placing your name on legislation that would allow humans to be created by cloning, and then allowed to develop for a week, or a month, or six months, before being killed for their parts. Perhaps you did not realize that the bill would make the federal government responsible for ensuring that every human clone dies prior to birth.

If this is the case, we hope that you will make this clear by withdrawing your cosponsorship of S. 2076. We also urge you to heed the overwhelming votes in favor of SCR 13 in the South Dakota legislature, and give favorable consideration to S. 1899, which is the only pending federal bill that really prohibits human cloning.

Respectfully,



Douglas Johnson

Legislative Director

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www.nrlc.org/Killing_Embryos/Index.html