

June 17, 2002

(202) 626-8820

Dear Senator:

The National Right to Life Committee (NRLC) urges you to support the pending Brownback-Ensign amendment to S. 2600.

The Brownback-Ensign Amendment would bar the U.S. Patent Office from issuing any patent on a member of the human species, including any human “embryo, fetus, child or adult.” This “unpatentability” would extend to members of the species *Homo sapiens* who are created by in vitro fertilization or by human cloning.

A patent is, of course, a government-conferred property right. **It is a violation of fundamental human rights, including the right to life, to confer such property rights over a member of the human family.** Indeed, the U.S. Patent Office itself has suggested that any patent on a human being would violate the Thirteenth Amendment to the Constitution, which prohibits on human slavery. But others dispute that position. Moreover, it was reported on May 17 in *The New York Times* that the Patent Office in 2001 issued a patent on a technique for cloning mammals that did not exclude humans -- a patent that would extend to any **human** embryos cloned by this technique.

As the *Times* reported, “The patent covers a way of turning unfertilized eggs into embryos, and the production of cloned mammals using that technique. But unlike some other patents on animal cloning, this one does not specifically exclude human from the definition of mammals; indeed, it specifically mentions the use of human eggs. Those opposed to cloning and to patenting of living things say the patent is a further sign that human life is being turned into a commodity.” We agree with what President Bush said in his April 10 speech on human cloning: “Life is a creation, not a commodity. Our children are gifts to be loved and protected, not products to be designed and manufactured.”

The biotech industry’s push to begin human cloning raises particularly acute concerns about turning humans into patented products. It has been reliably reported that some biotechnology firms wish to patent cloned human embryos as “medical models” (see [www.nrlc.org/Killing\\_Embryos/patentpuzzle030202.html](http://www.nrlc.org/Killing_Embryos/patentpuzzle030202.html)).

Moreover, biotech lobbyists and their allies are currently torturing language and logic in insisting that humans created by the cloning process will not really be human. For example, on June 14 Senator Feinstein took the Senate floor to argue in favor of legislation to allow human cloning if the clones are not allowed to live past 14 days. Senator Feinstein repeatedly referred to these developing members of the species *Homo sapiens*, up to 14 days old, as “unfertilized eggs,” and she even asserted that such an “unfertilized egg is not capable of becoming a human being.” (*Congressional Record*, June 14, 2002, page S. 5580)  
**When Senator Feinstein refers here to “eggs,” she is really talking about two-week-old human embryos. Her assertion that such a two-week-old embryo “is not capable of**

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**becoming a human being” is nonsense.** Even one who does not consider a two-week-old human embryo to be a human being must admit, if possessed of a shred of intellectual honesty, that one of these cloned embryonic humans if implanted into a uterus can indeed be born as a human baby -- as has already occurred with Dolly the sheep and countless other cloned mammals. As President Clinton's National Bioethics Advisory Commission, in its 1997 report *Cloning Human Beings*, stated: “The Commission began its discussions fully recognizing that any effort in humans to transfer a somatic cell nucleus into an enucleated egg involves the creation of an embryo, with the apparent potential to be implanted in utero and developed to term.” (For quotations in which NIH and prominent pro-cloning researchers also acknowledge that somatic cell nuclear transfer will create a “human embryo,” see [www.nrlc.org/Killing\\_Embryos/factsheetembryo.html](http://www.nrlc.org/Killing_Embryos/factsheetembryo.html))

Really, if the subject were not so serious, dehumanizing word games such as Senator Feinstein’s would be downright laughable. (See “The Amazing Vanishing Embryo Trick,” [www.nationalreview.com/comment/comment-johnson071701.shtml](http://www.nationalreview.com/comment/comment-johnson071701.shtml) ) Yes, of course, Dolly and all the other cloned mammals are “unfertilized,” in the sense that their individual lives began not with a sexual union of sperm and egg (“fertilization”), but through laboratory activation of a nucleus taken from a single parent. That is what cloning is – *asexual* reproduction. Like the human clones envisioned by Senator Feinstein, every one of these cloned mammals were “unfertilized” when they were two-week-old embryos. They were “unfertilized” as they developed in the uterus, they were “unfertilized” when they were born, and they will be “unfertilized” for as long as they live.

In the same fashion, if an “unfertilized” (because cloned) human embryo is implanted, develops through the pre-natal period, is born, and lives to be one hundred, he or she will still be “unfertilized.” Would Senator Feinstein say that such a born human clone is not a “human being”? Perhaps there are some who would indeed so assert. In a press release dated February 5, 2002, Senator Hatch said, “No doubt somewhere, some – such as the Ralians – are trying to make a name for themselves and are busy trying to apply the techniques that gave us Dolly the Sheep to human beings. **Frankly, I am not sure that human being would even be the correct term for such an individual heretofore unknown in nature.**”

Remarks such as Senator Hatch’s merely underscore the need for the Brownback-Ensign Amendment, and we urge you to support it. **We anticipate that any roll calls that occur on cloture on the Brownback Amendment, tabling of the Brownback Amendment, or adoption of the Brownback Amendment will be included in NRLC’s scorecard of key pro-life votes for the 107th Congress.** Thank you for your consideration of NRLC’s position on this important pro-life issue.

Sincerely,



Douglas Johnson  
Legislative Director