

Rafferty on the So-Called Legitimacy of the Common law “Born Alive” & “Quickening” Rules

It has been asked of me: “what are my thoughts [on proving] the corpus delicti [in common law procured abortion/unborn child-killing murder] cases. That’s easy: proof of fetal formation equals proof of fetal animation (rational or human ensoulment) which equals a new human being/person. See the 1st 2 cases (pp. 102-104) in Appendix 4 of my Unraveling book. Why else do you (Mr. X) think that I put those 2 cases in my book? Before, here, one gets to the question of whether what was aborted had quicken(ed) (or quickening?), one must first address the question of whether what had quicken(ed) was an intact human being/person-which was proved only by proof of fetal formation. That being established or proved, then recourse was made to the common law rule that a human being/person who is proven to have been living at one time (which fetal formation would have proved) is presumed to have continued to be alive until the contrary is proved. So, you see: the so-called “quickening” and “born alive” rules_ prove nothing that fetal formation has not already proved. And it is insulting to the English common law to accuse it of intentionally having created useless rules. Those two rules derived from nothing more than judicial errors in legal interpretation. (See my Unraveling book at pp. 230-232.)