

to come out. She then turned on the light and found a napkin and pinned it on herself. She then removed the baby from the toilet, picking it up by the feet, and cut the cord with a razor blade. She testified that the baby was limp and made no cry; that she thought it was dead; and that she made no attempt to tie the cord as she thought there was no use. She then laid the baby on the floor and proceeded to take further care of herself and clean up the room. The baby remained on the floor about fifteen minutes after which she wrapped it in a newspaper and placed it under the bath tub to conceal it from her mother. She then returned to bed and the next day went about as usual, going to a carnival that evening. On the next day, April 1, her mother discovered the body of the infant under the bath tub.¹²

The legal issue in the case is also different from what I recall. The question presented is not only whether the baby was born alive for purposes of the California manslaughter statute¹³, but also whether the statute required that the baby be entirely separate from its mother with the umbilical cord cut. The court concurred with the finding of the jury that a baby in the process of being born but with the capability of living an independent life is a human being within the meaning of the homicide statutes. The Court affirmed the judgment of the lower court concluding that a criminal act had been committed because of the mother's "complete failure . . . to use any of the care towards th[e] infant which was necessary for its welfare and which was naturally required of her".¹⁴

My recollection is that the Criminal Law professor was supportive of my comments, even though his own Socratic dialogue had not invited them. Nor had he presented Josephine Chavez as a complex person worthy of our sympathy. This professor was later to invite a me and a small number of other students for an evening