

The Eye on Abortion

July 2005



WHAT IF ROE FELL?

Dear Partners,

The battle for the Supreme Court is on! Sandra Day O'Connor's sudden retirement from the bench recently cleared the way for President Bush to nominate another judge to fill that position. It was announced on July 19 that the president chose to nominate federal appeals court judge **John G. Roberts**.

Roberts has received high praise from conservatives across the board. James Dobson of Focus on the Family recently said of Roberts, "Judge Roberts is an unquestionably qualified attorney and judge with impressive experience in government and the private sector. He has demonstrated at every stop on his career path the legal acumen, judicial temperament and personal integrity necessary to be a Supreme Court justice."

Many liberal groups, especially pro-abortion groups, however, have already begun to attack. NARAL Pro-Choice America is urging people to, "Tell your senators to oppose anti-choice John Roberts!"

The infusion of a new judge on the Supreme Court could potentially tip the balance of the greatest court in the land from being one that is sympathetic to extreme *liberal* views, to one that rules on behalf of more *conservative* views on issues such as abortion, traditional marriage, pornography and a myriad of other issues.

No one had stepped down from the Supreme Court in over a decade. In light of this potential shift of power, *Roe v. Wade*, indeed, could possibly be overturned in the days to come (Lord, may it be!). The question then becomes, "What would happen to so-called 'abortion rights' if that happened?"

BRUSHING UP ON "ROE" AND "DOE"

The combination of the ***Roe v. Wade*** and ***Doe v. Bolton*** cases, each passing in 1973, gave Americans the "right" to abortion on demand, through all 9 months of pregnancy, for any reason.

As stated by Lawrence H. Tribe of Harvard University Law School, "Roe held that, *even after a fetus was viable*, the State could not place the interests and welfare of that fetus above those of the method in preserving her own life and health...In *Doe*, the companion case to *Roe*, the Court emphasized that the health of the mother represents a medical judgment that 'may be exercised in light of all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient.'"



As you can see, *Doe* defined the term "health" so broadly that it permits abortion for any reason whatsoever. Individual states have certain restrictions in effect at this time (such as parental notification), but regardless, they are incapable of trumping federal law, which guarantees abortion on demand.

WHAT IF ROE FELL?

Contrary to popular belief, if Roe is overturned, unfortunately, abortion would *not* become outlawed in America. Instead, the jurisdiction would return to the states, giving each state the authority to set its own abortion policy. Before Roe passed in 1973, each state had its own laws in place concerning abortion, each with varying degrees of restrictions.



Several states allowed abortions when childbirth posed grave danger to the physical or mental health of a woman, when there was high likelihood of fetal abnormality, or when pregnancy resulted from rape or incest. Others banned it all together unless the woman's actual life was in danger. If Roe were overturned, the laws that were in place prior to Roe within each state would be reinstated, some immediately, others taking a bit longer.

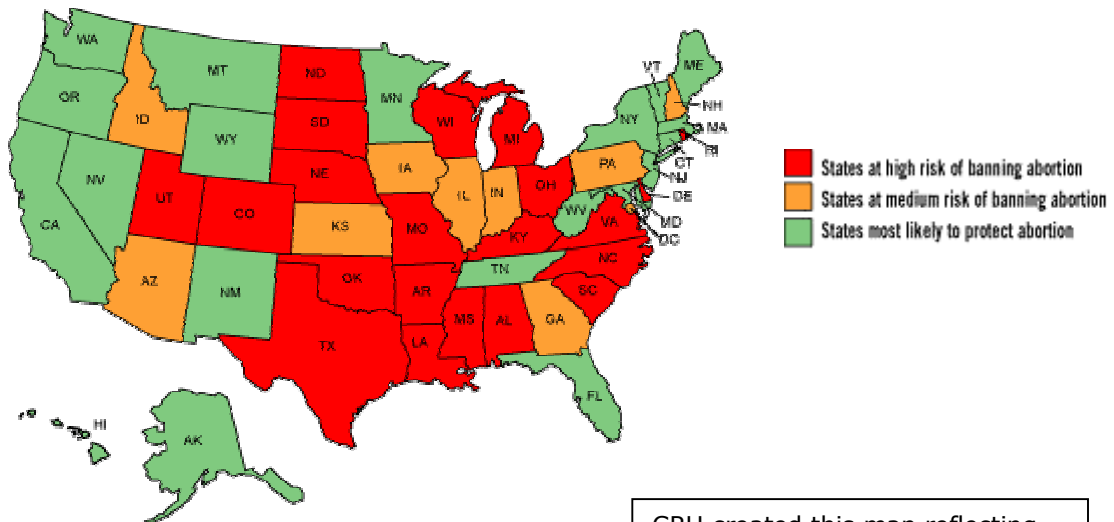
A pro-abortion organization called **The Center for Reproductive Health (CRH)** released a study in October of 2004 entitled "**What if Roe Fell?**" In this study, they determined which states would most likely ban abortion and which states would not. The study was based on current state laws, state constitutions, and the composition of state legislatures.

The results of that study were as follows:

The 21 states considered most likely to ban abortion are: Alabama, Arkansas, Colorado, Delaware, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Texas, Utah, Virginia and Wisconsin.

The nine states that may possibly ban abortion are: Arizona, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, New Hampshire and Pennsylvania.

The 20 states least likely to ban abortion are: Alaska, California, Connecticut, Florida, Hawaii, Maine, Maryland, Massachusetts, Minnesota, Montana, Nevada, New Jersey, New Mexico, New York, Oregon, Tennessee, Vermont, Washington, West Virginia and Wyoming.



CRH created this map reflecting the results of their study.

The results of the CRH study are upsetting regarding my home state of Minnesota. However on a positive note, it is *very* encouraging that abortion may actually be banned, or highly restricted, in over 21 states if Roe is overturned! This would be an incredible victory for the unborn and their parents! For any changes to be made to existing state laws at that point, it would have to be battled out in the state courts.

When the Supreme Court passed Roe, *nine men* determined that abortion should be legal for any reason across the entire United States (and to think, the pro-aborts are always saying that *men* should not have any say in the abortion issue because they will never become pregnant...hmm...). If the power returns to the states, then the *will of the people* will be reflected in state law, as it should be.

Tony Perkins, president of the Family Research Council and a leader in the pro-life arena, agreed that 30 states or more would move to restrict or curtail abortion if Roe was overturned. "The court is out of step with the rest of America," he said. "I have no doubt that you would see a majority of the states take action to protect unborn children and their mothers."

BRACING FOR "THE WORST"

California amended its laws in anticipation of Roe possibly being overturned. California passed several bills in 2002 regarding abortion law, one of which is Senate Bill 1301, signed on September 5, 2002. This bill, also called the Reproductive Privacy Act, supposedly "protects reproductive choice" in California.



The bill revised former state law in several ways, one you could see coming a mile away. Former state law prohibited abortions "after the 20th week of pregnancy." The new wording reads: "[t]he state may not deny or interfere with a woman's right to choose or obtain an abortion prior to viability of the fetus, or when the abortion is necessary to preserve the life or health of the woman." (Note the word "health" in that statement...a.k.a. *any* reason!)

According to the bill's sponsor, Sen. Sheila Kuehl, D-Santa Monica, "We have an anti-choice president, an anti-choice Congress, and a Supreme Court that's one vote away from overturning Roe v. Wade. In other words, California is the first state to shield abortion against future federal policy and court decisions." I would say that we have a president and a Congress that fully support the right to choose, but that killing human beings should not be a legally protected choice!

THE LORD HEARS YOUR PRAYERS

Please pray for Judge John Roberts as he proceeds through the nomination process. Pray that the approval process will go through smoothly, without any filibusters, if indeed this is the person whom God would place in that position.

This is an amazing time to be alive and to make our voices heard on this issue. Pray that the Lord's will would be done and that abortion would not only become *restricted* in our country, but *banished* completely.

On my knees with you on behalf of the unborn and their parents,

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