No. 88-605

IN THE

Supreme Court of the United States

OCTOBER TERM, 1988

WILLIAM L. WEBSTER, *et al.*,

Appellants,

v.

REPRODUCTIVE HEALTH SERVICES, *et al.*,

Appellees.

On Appeal from the United States Court of Appeals for the Eighth Circuit

BRIEF OF AMICI CURIAE NATIONAL ASSOCIATION OF WOMEN LAWYERS AND NATIONAL CONFERENCE OF WOMEN'S BAR ASSOCIATIONS IN SUPPORT OF APPELLEES

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INTEREST OF AMICI CURIAE

The National Association of Women Lawyers ("NAWL") and the National Conference of Women's Bar Associations ("NCWBA") submit this brief as *amici curiae*, with the consent of the parties, in support of Appellees' position that *Roe v. Wade*, 410 U.S. 113 (1973) not be overruled. This brief addresses only one of the seven questions presented to this Court: whether *Roe v. Wade* should be reconsidered. As organizations with strong interests in women's rights and securing justice for all, NAWL and NCWBA are concerned that the abandonment of the important and well-established precedent of *Roe v. Wade* would be harmful to the legal system and would endan-

ger public confidence in the objectivity and independence of the Court.

The NCWBA is a non-profit professional organization of approximately 50,000 male and female attorneys. Membership is open to all individual state, regional, and local women's bar associations. The NCWBA was formed in 1981 to promote the highest standards of the legal profession, to advance justice, to promote and protect the interests of women, and to pursue these goals through appropriate legal, social and political action.

Founded in 1899, the NAWL is a voluntary national membership organization of the legal profession, having official representation in various organizations, commissions and governmental agencies, both national and international. It is comprised of approximately 1200 individual members and numerous women's bar association affiliate members (encompassing several thousand additional members) across the country. Its individual members, from each state and the District of Columbia, include prosecutors, public defenders, private attorneys, trial and appellate judges from the state and federal courts, legislators, law professors and law students. Although the members of the NAWL hold a broad spectrum of personal views, they share a common concern that the law be administered justly, fairly and predictably. As an organization made up primarily of women it has and continues to be a supporter of women's rights. As an organization of attorneys it supports the integrity of the justice system.

The NAWL favors the decriminalization of abortion in the early stages of pregnancy and the adoption of a uniform approach to abortion. As an affiliate of the American Bar Association, with a voting delegate in the House of Delegates, it has participated in efforts in this area of the law which included a resolution in 1972 approving the Uniform Abortion Act. That Act was promulgated by the National Conference of Commissioners on Uniform State Laws, and adopted by the NAWL, because the proliferation of conflicting state policies on abortion was thought to be unwise and unworkable as a matter of legal administration and unjust as a matter of social policy. The

Uniform Abortion Act declared lawful abortions performed by doctors during the first twenty (20) weeks of a pregnancy; abortions after the twentieth week were permitted, if at all, only under certain narrowly defined circumstances. Uniform Abortion Act, § 1(b).

The central concern underlying the original Uniform Abortion Act, and its support from the NAWL, was the need to assure uniformity in state laws in an area in which differences in state laws had produced undesirable social consequences. In the years immediately preceding *Roe*, abortions were unlawful in most states, although the procedure was lawful in a few states, most notably New York and California. As a consequence, literally hundreds of thousands of pregnant women residing in states with restrictive laws went to New York and California to have abortions. In 1972, the year preceding *Roe*, forty percent (40%) of all legal abortions in the United States, some two hundred thousand (200,000), were performed on women who had left their state of residency to have the procedure performed elsewhere. (*See* Chart, attached as Appendix A.)

For a significant part of the population, however, the costs of travel prohibited the option of an abortion. Indigent women, who could not afford such travel were thus denied a safe and lawful abortion simply because they could not afford an opportunity available to more affluent women. There was, thus, a divisive and unfair social consequence arising from the lack of uniformity in state laws concerning abortion. And that unfortunate consequence was compounded by the well-known fact that a disproportionate number of poor women are minorities.

The NAWL's and NCWBA's positions concerning abortion also reflected a recognition of the problems inherent in criminalizing an action which is fundamentally a personal, moral decision. Many individuals' choices regarding abortion are deeply personal and determined by particular religious and philosophic beliefs. To criminalize an act over which there are such strongly held conflicting views is perceived by the NAWL and NCWBA to be unwise.

Finally, because a significant portion of the population desired the option of an abortion, a prohibition on abortion was recognized to be unrealistic. Illegal abortions were a fact—and a significant social problem. The adverse medical and social consequences from illegal abortions were obvious.

Following the January 1973 decision in *Roe*, the National Conference of Commissioners on Uniform State Law approved a Revised Uniform Abortion Act. The Revised Act conformed to the principles set forth in *Roe*, and thus provides different rules governing abortions in each trimester of a pregnancy. The NAWL, again through its position with the American Bar Association, approved the Revised Act in February 1974, in recognition of the wisdom of a uniform approach to the complex issues raised by abortion and of the problems associated with inconsistent state by state legislation.

The NAWL has recently reaffirmed its position on legalized abortions. In February, 1989, it unanimously passed a resolution affirmatively endorsing the right to privacy recognized by the United States Supreme Court in *Roe v. Wade*, supporting every woman's right to reproductive self-determination and supporting efforts to secure equal protection of the laws for poor women by allowing the use of public funds for abortions for welfare recipients. The NAWL and NCWBA further believe that the right to reproductive choice is an indispensable step in the attainment of full equality for women, including their members, thousands of women lawyers.

In sum, the NAWL's and NCWBA's positions regarding abortion have consistently reflected three concerns: (1) that abortions be legally available to a uniform degree throughout the country; (2) that a procedure which involves highly charged and conflicting moral and social issues not be criminalized; and (3) that the realities of illegal abortion were detrimental to our society.

Both the NAWL and NCWBA are in short, national organizations of attorneys, with well-established positions favoring a uniform approach to the abortion issue that recognizes the core

holding of *Roe v. Wade*: Women have a constitutional right to an abortion, although that right may be limited by the states during some later periods of pregnancy. Moreover, the NAWL and NCWBA have equally, if not greater, established positions favoring certainty, equality and justice in the law, policies that are, in this case, entirely consistent with the principles of *stare decisis*.

ARGUMENT

I. OVERRULING *ROE V. WADE* WOULD ENDANGER PUBLIC CONFIDENCE IN THE INTEGRITY AND OBJECTIVITY OF THE COURT

The doctrine of *stare decisis* is always an important consideration for this Court to weigh whether interpreting the Constitution or a statute. The fact that this Court has on a number of occasions overruled past decisions does not mean that it has done so lightly or without good and articulated reasons. A decision to follow or to overrule prior precedent lies at the heart of the judicial process. The interest and concern of the NAWL and NCWBA in this case is the preservation not simply of an orderly, consistent and predictable process of adjudication, but, even more importantly, the preservation of public confidence in the integrity, objectivity and independence of the judiciary.

In an age where legal realism has dominated philosophy and rapid change has characterized the social environment, it is too easy to overlook the important values embodied in adherence to precedent. The most important of these is the constraining or limiting function that precedent has on judicial action. It is, at bottom, what legitimates our unique constitutional system and which permits this Court its important voice in that system. As Justice Harlan wrote for a unanimous Court:

> Very weighty considerations underlie the principle that courts should not lightly overrule past decisions. Among these are the desirability that the law furnish a clear guide for the conduct of individuals, to enable them to plan their affairs with assurance against untoward surprise; the importance of furthering fair and expeditious adjudication by eliminating the need to relitigate every relevant proposition in every case; and the necessity of

> maintaining public faith in the judiciary as a source of impersonal and reasoned judgments.

Moragne v. States Marine Lines, Inc., 398 U.S. 375, 403 (1970).

In reconsidering the holding of *Roe v. Wade*, this Court should give great weight to *stare decisis* and particularly to "the necessity of maintaining public faith" in the system of judicial review. We submit that overruling *Roe* would damage that faith so essential to preserving the rule of law.

A. *No "Special Justification" Exists For Overruling* Roe *And None Of The Grounds Customarily Invoked Are Present Here.*

The doctrine of *stare decisis* has special importance in that it provides certainty to our legal system. While this Court has, for a variety of reasons, overruled prior precedent, the Court has never overruled established precedent simply because the Court as presently composed would have reached a different result. Rather, "[a]ny departure from the doctrine of *stare decisis* demands special justification". *Arizona v. Rumsey*, 467 U.S. 203, 212 (1984)[1].

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[1] As this Court recently explained, the doctrine of *stare decisis*

> permits society to presume that bedrock principles are founded in the law rather than in the proclivities of individuals, and thereby contributes to the integrity of our constitutional system of government, both in appearance and in fact. While *stare decisis* is not an inexorable command, the careful observer will discern that any detours from the straight path of *stare decisis* in our past have occurred for articulable reasons, and only when the Court has felt obliged "to bring its opinions into agreement with experience and with facts newly ascertained." *Burnet v. Coronado Oil & Gas Co.*, 285 U.S. 393, 412, 76 L.Ed. 815, 52 S.Ct. 443 (1932) (Brandeis, J., dissenting).
>
> Our history does not impose any rigid formula to constrain the Court in the disposition of cases. Rather, its lesson is that every successful proponent of overruling precedent has borne the heavy burden of persuading the Court that changes in society or in the law dictate that the values served by *stare decisis* yield in favor of a greater objective.

Vasquez v. Hillery, 474 U.S. 254, 265-66 (1986). *See generally*, Monagham, *Stare Decisis and Constitutional Adjudication*, 88 Colum. L. Rev. 723 (1988).

Admittedly, reversal of a constitutional holding as opposed to a legislative interpretation is said to be more frequent on the Brandeisian rationale that, in constitutional matters, "correction through legislative action is practically impossible." *Burnet v. Coronado Oil & Gas Company*, 285 U.S. 393, 406 (1932) (Brandeis, J., dissenting).[2] Hence, reversal of a constitutional holding is arguably appropriately done more often. Where surrounding factual circumstances have so changed as to make a long-standing and originally sensible reading of the Constitution outmoded it makes practical sense for the Court to overrule precedent rather than insist on the difficult process of amendment; *Erie Railroad v. Tompkins*, 304 U.S. 64, 74-80 (1938) is a classic example and fits well into the Brandeis theory.

The argument regarding the difficulty of overruling constitutional precedent may, however, be overstated. On highly controversial matters a realistic Court undoubtedly can appreciate the legislative realities and the political persuasiveness of the Court's own pronouncement which often influences public attitudes and thereby the Congress. Just as the Court's most serious function is interpretation of our fundamental charter in the first instance, however, so too does it exercise particular restraint in overruling its prior view, precisely because it *is* so much more difficult for the political branches to change the result. Consensus once achieved is not lightly put aside. In interpreting the Constitution it is the Court's conviction about fundamental principles rather than the possibility of political reversal through amendment which motivates its holding in the first place. Attorneys, as well as the public, rightfully rely on the assumption that this Court's constitutional holdings are well-reasoned and binding. If that is true, then the process of judicial reversal should require at least the same somber consideration as did the original holding, uninfluenced by

[2] The reference, of course, is to the difficulty of constitutional amendment. But it should be noted that in the case of *Roe* the Congress could not muster even a majority of votes to start the process of a constitutional amendment.

the politics of reversal. It is only where experience dictates the overruling of a precedent, as new and better reasoning is demanded by new facts presented to the Court that this Court has overruled prior constitutional holdings. Only then does the Court "bow to the lessons of experience and the force of better reasoning. . . ." *United States v. Scott*, 437 U.S. 82 (1978).

1. "*The Force of Better Reasoning*".

As the Court in *Scott* noted, "better reasoning" is coupled with, indeed arises from, the demand of new facts. But even assuming (which we do not concede) that better reasoning alone, without supervening facts, can justify overturning a decision based on the Constitution, we know of no arguments available today on the constitutional issues involved in *Roe* which were not available and in fact made when it was decided, and which have not been, explicitly or implicitly, invoked in its many progeny. Those arguments have not become "better reasoning" simply through repetition. Indeed, many objective observers might agree that the reasoning of the dissenters was "better" in 1973 (and now) than that of the then majority, but it is not "better" now because it has improved with age or by reason of its "lessons of experience". In short, the mere repetition of arguments made to and rejected by the *Roe* majority in 1973 should not justify reversal.

Reinforcing this point is the further fact of *Roe's* many progeny which accept that decision and its reasoning as settled. Indeed, this Court has repeatedly reaffirmed *Roe* and expressly recognized the importance of *stare decisis* in doing so:

> Legislative responses to the Court's decision have required us on several occasions, and again today, to define the limits of a State's authority to regulate the performance of abortions. And arguments continue to be made, in these cases as well, that we erred in interpreting the Constitution. Nevertheless, the doctrine of *stare decisis*, while perhaps never entirely persuasive on a constitutional question, is a doctrine

> that demands respect in a society governed by the rule of law. We respect it today, and reaffirm *Roe v. Wade*.

Akron v. Akron Center for Reproductive Health, Inc., 462 U.S. 416, 419-20 (1983) (footnote omitted); *Thornburgh v. American College of Obstetricians and Gynecologists*, 476 U.S. 747, 759 (1986) ("Again today, we reaffirm the general principles laid down in Roe and Akron."); *See also Harris v. McRae*, 448 U.S. 297, 312-14 (1980); *Colautti v. Franklin*, 439 U.S. 379, 386 (1979); *Maher v. Roe*, 432 U.S. 464, 471-72 (1977) ; *Planned Parenthood of Central Missouri v. Danforth*, 428 U.S. 52, 55, 60-61 (1976); *Connecticut v. Menillo*, 423 U.S. 9, 10-11 (1975); *Doe v. Bolton*, 410 U.S. 179, 182-83 (1973) . *Cf. H.L. v. Matheson*, 450 U.S. 398 (1981); *Planned Parenthood Association v. Ashcroft*, 462 U.S. 476 (1983); *Simopoulos v. Virginia*, 462 U.S. 506 (1983); *Bellotti v. Baird*, 443 U.S. 622 (1979); *Beal v. Doe*, 432 U.S. 438 (1977) ; *Bellotti v. Baird*, 428 U.S. 132 (1976).

Of particular importance is avoidance of the equation of "better reasoning" with changes in the composition of the Court itself. The ever changing composition of the Court is frequently and properly a factor in changing general directions of judicial interpretation. But it is virtually always accompanied by other changes as well.

Here the point is the institutional character of the Court. Decisions by a majority of the Justices, however composed, are decisions of the Court itself entitled to institutional deference. Respect for past decisions of such a majority helps to build a mutual respect which, in turn, is important to the enormous public esteem in which the Court is held and which is essential to that respect for its decisions which leads to voluntary compliance. Absent such respect, politicians — and the public — will conclude that "court packing" can change this Court's constitutional holdings. History teaches us that that is a conclusion to be avoided if the Court is to retain its institutional respect.

2. *"The Lessons Of Experience"*

Clearly there are "lessons of experience" arising from the many cases finding their way to Courts of Appeals and especially to this Court. At first blush, one might wonder why the States have had such difficulty in interpreting *Roe* and why this Court has been called upon so many times to pass on its interpretation. Do these facts and these cases suggest any major flaw in the *Roe* decision? Do they come about because *Roe* was wrongly decided?

We respectfully suggest that the reasons for the continued controversy concerning *Roe* stem not from the lesson of experience or supervening social change, but from the political vigor of the debate about abortion. There would be continued dispute had *Roe* been decided differently simply because of the fact that the public forms opinions on this issue from deeply held religious, moral and philosophic convictions that go to the very core of the role of government and personal decision-making. Admittedly, if the Court had not invoked its prior privacy decisions to decide in *Roe* that a woman had a fourteenth amendment right to abortion which in certain circumstances the States can not constitutionally deny or frustrate, these cases, all of which test the circumstances and methods through which states may regulate the process of abortion, would not have arisen in a constitutional context. But it is always the case that when this Court extends a recognized constitutional right to new factual situations, the extent and nature of the "new" right is likely to be tested. The more controversial that right is, the more vigorously it will be both attacked and defended. That experience — the controversy over the limits of a constitutional holding — is not, however, a sufficient basis for overruling the holding.

As this Court itself has recently recognized:

> Constitutional rights do not always have easily ascertainable boundaries, and controversy over the meaning of our Nation's most majestic guarantees frequently has been turbulent. As judges, however, we are sworn to uphold the law

> even when its content gives rise to bitter disputes. We recognized at the very beginning of our opinion in *Roe*, 410 U.S. at 116, that abortion raises moral and spiritual questions over which honorable persons can disagree sincerely and profoundly. But those disagreements did not then and do not now relieve us of our duty to apply the Constitution faithfully.

Thornburgh v. American College of Obstetricians and Gynecologists, 476 U.S. 747, 771-72 (1986) (citation omitted).

The decision of the Court in *Brown v. Board of Education*, 347 U.S. 483 (1954) to effectively overrule *Plessy v. Ferguson*, 163 U.S. 537 (1896) presents an excellent contrast to the question now before the Court. *Plessy* withheld a constitutional right and the "lessons of experience" in the more than a half a century between *Plessy* and *Brown* demonstrated that the right must exist under our constitutional system. *Roe* in contrast bestowed a right. In the fifteen (15) years since *Roe* was decided there are no similar lessons of experience that would justify the elimination of the right *Roe* recognized.

The analogy to *Brown*, however, is appropriate in another regard. In the initial years following *Brown*, as in the fifteen (15) years following *Roe*, state legislatures and the public who opposed the *Brown* ruling attempted in numerous ways to undermine this Court's core holding and sought repeated review of the *Brown* decision. It was this Court's steadfast adherence to *Brown* that thirty-five (35) years later has lead to its wide acceptance.

B. *Once Determined By This Court, Constitutional Rights Of Individuals Should Be Denied Only In The Most Exceptional Circumstances*

In the cases decided by this Court overruling precedent for one reason or another, it is virtually impossible to find any case which takes away individual rights previously held by this Court to have been guaranteed by the Constitution. If one eliminates those cases based on *Lochner v. New York*, 198 U.S. 45 (1905), which were based on then current notions of economics and which so frustrated national policy as to threaten this Court's

independence during the New Deal, one is left essentially empty handed. No case which purported to guarantee constitutional rights thought to be fundamental in any sense has been overturned.[3]

It is not an exaggeration to say that much of the respect which this Court has deservedly achieved over almost two centuries stems from the fact that it is the strong guarantor of rights against both the Federal and State Governments in our political system. As we have noted, decisions recognizing such constitutional rights are not always popular. Nevertheless, while the Court has sometimes refused to expand existing rights against governmental entities, it has never taken back the fundamental right once recognized.[4]

This history is significant in the *Roe* context. Restoring the pre-*Roe* status quo is a significantly different decision than the one the Court faced when it decided *Roe*. Prior to *Roe* there were no expectations to be frustrated, no deeply entrenched practices to be reversed through judicial pronouncement. After *Roe*, that is no longer true. Overruling precedent in such a unique circumstance can seriously threaten stability and conti-

[3] It is true that this Court had considerable difficulty dealing with the problem of picketing and other exercises of free speech on the privately owned premises of shopping centers. Arguably, *Hudgens v. NLRB*, 424 U.S. 507 (1976) limits free speech in this respect, but the limitation is scarcely fundamental, and certainly it does not extinguish the basic underlying right of freedom of speech.

[4] The case of *West Virginia State Bd. of Ed. v. Barnette*, 319 U.S. 624 (1943) has been cited as authority for overruling even recent prior precedent and therefore relevant to overruling *Roe*. See Amicus Brief for the United States at 10. In fact *Barnette* cuts the other way. It recognized the rights of individuals on grounds of conscience, extending freedom rather than curtailing it, in a context which was hardly politically popular. In many ways it more nearly resembles *Brown* for it was protecting the right of a minority—in *Barnett* a small minority refused to yield to the demands of an often violent majority on first amendment grounds. The increasing mob violence, fueled by wartime sentiments, was a new circumstance of which the Court properly took account. The analogy to *Roe* would be apt if *Barnette* had preceded *Minersville School District v. Gobitis*, 310 U.S. 586 (1940), and the Court, yielding to popular pressure and a spate of violence, had taken back the right it had recognized in *Barnette*.

nuity and, for that reason alone, should be avoided. *See* Rawls, *The Idea Of An Overlapping Consensus*, Oxford J. Legal Studies, 1, 12-15 (1987). Here, the reliance at issue differs from the normal argument for *stare decisis* in that it is not action taken in reliance on a rule, but an expectation—in the light of history a justifiable one—born of reliance on the integrity of our constitutional system. That the Court could strike down *Roe* without new facts, circumstance or reasoning, would be bound to raise anxiety by potential beneficiaries of other rights.

The issue is not whether a woman could simply rely, or in fact does rely, on her right to an abortion. The question is to what extent is one justified in counting on this Court to maintain, as it has always done in the past, its position of protecting what the Court itself has characterized as fundamental human rights. Such reliance in the area of fundamental constitutional rights is, and must be, justifiable. Without overwhelming reasons, and none exist here, this Court should not disappoint that reliance.

C. *Reversal Of* Roe *Would Be Publicly Perceived As Incompatible With Judicial Independence And Objectivity*

The fundamental basis for adhering to *stare decisis* in most cases is simply preserving the legitimacy and independence of the judicial system in our constitutional government.[5] It is

[5] Justice Stevens recognized the significance of the institutional stability of the Court when he stated:

> Of even greater importance, however, is my concern about the potential damage to the legal system that may be caused by frequent or sudden reversals of direction that may appear to have been occasioned by nothing more significant than a change in the identity of this Court's personnel. Granting that a zigzag is sometimes the best course, I am firmly convinced that we have a profound obligation to give recently decided cases the strongest presumption of validity. That presumption is supported by much more than the desire to foster an appearance of certainty and impartiality in the administration of justice, or the interest in facilitating the labors of judges. The presumption is an essential thread in the mantle of protection that the law affords the individual. Citizens must have confidence that the rules on which they rely in ordering their affairs—particularly when they are prepared to take issue with those in

difficult to imagine a case which raises that issue more directly and more starkly than does the possibility of overruling *Roe*.

For deeply religious and moral reasons with which this Court is thoroughly familiar, the public is seriously divided on the fundamental question of permitting abortion at all, and, to a somewhat lesser extent, on the many subsidiary problems raised by permitting abortions. Because of the strength of these convictions and the large number of people involved on both sides of the threshold question, the abortion issue has become heavily politicized. Not only are people divided on the question in every state, but the states are divided on the question themselves. Arguments on both sides are passionate, often strident, demonstrations occur frequently and differences have occasionally lead to violence born of conviction in the rightness of one's position. Since *Roe* the Court itself and individual Justices and Judges in the Federal system have frequently been the targets of hostile comments, demonstrations and other abuses.

Roe, of course, did not create these strongly felt divisions. *Roe* has, however, brought about the only uniformity that exists today on abortion. By declaring a woman's right to abortion under the Constitution, *Roe* shifted the focus of attention in state legislatures and more forcefully brought the Federal Courts into the abortion controversy. Were *Roe* to be overruled it would remove for a period of time this Court from the eye of the storm. Debate, demonstrations and the host of political and human problems which unavoidably accompany State abortion regulations would continue unabated. And there would also continue to be political pressure on the President and Congress to use federal power to influence the states' rules and regulations in one direction or another. Divisions among pro-abortion states and anti-abortion states would create further demands for federal

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> power in doing so—are rules of law and not merely the opinions of a small group of men who temporarily occupy high office. It is the unpopular or beleaguered individual—not the man in power—who has the greatest stake in the integrity of the law.

Florida Department of Health and Rehabilitative Services v. Florida Nursing Home Association, 450 U.S. 147, 153-54 (1981) (Stevens, J., concurring) (footnotes omitted).

intervention and there is the probability, whatever this Court does, that abortion problems will come before it in the future.

Understandably, but unfortunately from the Court's perspective, the abortion issue has entered national politics. The Solicitor General has urged and continues to urge this Court to reverse *Roe*, not because it runs counter to or frustrates some broad national policy[6] but simply because he, like the President, believes *Roe* was wrongly decided.

This politically-charged environment requires a heightened sensitivity to the traditional *stare decisis* doctrine. For this Court to reverse *Roe* in the absence of new persuasive and articulated facts and reasons would damage this Court in the public mind and adversely reflect upon its political independence and judicial impartiality. The press has already indicated that it will see any overruling of *Roe* in this light, and it is from the press that the public obtains its information.

An independent judiciary is one of the essential characteristics of a free society. Anything which damages the public's perception of judicial independence of the political branches damages the Court, the legal profession, and constitutional government so essential to our freedoms.

CONCLUSION

No new facts, circumstances or experience warrant the withdrawal of the constitutional right recognized in *Roe v. Wade*. It

[6] In this respect the current abortion controversy contrasts with the constitutional revolution of 1937 and President Roosevelt's Court Packing Plan. While the Hughes Court clearly overruled long lines of precedent, essentially at the behest of the President and Congress, it did so to remove constitutional blocks to regulatory laws overwhelmingly voted by the chosen representatives of the people, and it did so without sacrifice of human liberty, but, arguably, to its enhancement.

is respectfully submitted, therefore, that the Court should adhere to the considered decision announced in *Roe v. Wade*.

Respectfully submitted,

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