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Perspectives on the Abortion Decision

Charles Fulton Noble

PERSPECTIVES ON THE ABORTION DECISION

In the 1973 case of *State v. Strance*,[1] the New Mexico Court of Appeals held that the portion of the New Mexico abortion statute[2] which imposed criminal sanctions on any person who performed an unjustified medical abortion was unconstitutional. The court held unconstitutional those parts of the statute which it thought were not within the standards enunciated by the United States Supreme Court in *Roe v. Wade*[3] and *Doe v. Bolton*[4] and left intact those portions which conformed to those standards. Subsequently, the New Mexico Legislature has passed two abortion related laws. The first of these laws directs physicians to report any abortions which they perform to the Department of Vital Statistics.[5] The other law directs the New Mexico Board of Medical Examiners to promulgate regulations governing the standard of care to be exercised with respect to live aborted fetuses.[6] The purpose of this article is to explain the con-

1. 84 N.M. 670, 506 P.2d 1217 (Ct. App. 1973).
2. N.M. Stat. Ann. § § 30-5-1 to 3 (1978).
3. 410 U.S. 113 (1973).
4. 410 U.S. 179 (1973).
5. N.M. Stat. Ann. § 24-14-18 (1978).
6. N.M. Stat. Ann. § 61-6-20 (1978). Rule 17, promulgated by the Board of Medical Examiners, states:

> RULES AND REGULATIONS GOVERNING THE TREATMENT OF INFANTS BORN ALIVE AND EXPERIMENTATION UPON FETUSES
>
> The New Mexico Board of Medical Examiners expects medical practitioners to utilize proper standards of care as relates to infants born alive.
>
> As necessary for this implementation, the following definitions are adopted:
>
> (A) "Pregnancy" encompasses the period of time from confirmation of implantation until expulsion or extraction of the fetus.
>
> (B) "Fetus" means the product of conception from the time of implantation until a determination is made, following expulsion or extraction of the fetus, that it is viable.
>
> (C) "Viable" as it pertains to the fetus means being able, after either spontaneous or induced delivery, to survive (given the benefit of available medical therapy) to the point of independently maintaining heartbeat and respiration.
>
> (D) "Nonviable fetus" means a fetus *ex utero* which, although living, is not viable.
>
> Further:
>
> Activities directed toward fetuses *ex utero*, including nonviable fetuses, as subjects.
>
> (a) Until it has been ascertained whether or not a fetus *ex utero* is viable, a fetus *ex utero* may not be involved as a subject in an activity covered by this subpart unless:

stitutional limitations which are applicable to these laws and any forthcoming legislation. The article does not discuss the funding of abortions with public funds. It is addressed primarily to New Mexico legislators in an attempt to explain some of the constitutional considerations surrounding abortion issues.

Presently, the remaining sections of the New Mexico abortion statute[7] make it illegal for a physician to perform an abortion without the consent of the woman, or if she is under 18, without the consent of the woman and her parent or guardian. It also requires that abortions be performed by a physician licensed by the State of New Mexico. Even in this limited form, the statute appears to be unconstitutional in light of *Planned Parenthood of Central Missouri v. Danforth*[8] in which the United States Supreme Court held that a third party (the parent) may not have an absolute veto power over the decision of a minor and her physican to terminate her pregnancy. Accordingly, this article will explore whether a state may regulate in the following areas, either because they arise under the present New Mexico statute or because they have arisen under the statutes of other states: the licensing of physicians, the timing of certain abortion techniques, informed consent provisions, parental consent provisions, spousal consent provisions, recording provisions, and the care of live-born fetuses.

ROE V. WADE AND DOE V. BOLTON

In the now historic case of *Roe v. Wade,*[9] the United States Supreme Court established that a woman has the right to choose to

(1) There will be no added risk to the fetus resulting from the activity, and

(2) The purpose of the activity is the development of important biomedical knowledge which cannot be obtained by other means, or

(3) The purpose of the activity is to enhance the possibility of survival of the particular fetus to the point of viability.

E. No nonviable fetus may be involved as a subject in an activity covered by this subpart unless:

(1) Vital functions of the fetus will not be artificially maintained.

(2) Experimental activities which of themselves would terminate the heartbeat or respiration of the fetus will not be employed, and

(3) The purpose of the activity is the development of important biomedical knowledge which cannot be obtained by other means.

(4) Written informed consent has been obtained from the mother.

7. N.M. Stat. Ann. § § 30-5-1 to 3 (1978).

8. 428 U.S. 52 (1976).

9. In *Roe,* the Court struck down a Texas abortion statute. In doing so, Justice Blackmun recounted the history of abortion law. It is interesting to note that the state antiabortion laws in effect at the time the decision was rendered were relatively recent in origin. They were not derived from either ancient law or the common law, but were a product of late nineteenth century thinking. 410 U.S. at 129.

obtain an abortion. The right is not absolute, but it should be considered in any new legislation. The *Roe* Court, in a substantive due process analysis, first observed that the right to privacy is a "fundamental" right guaranteed by the Fourteenth Amendment. It then determined that the decision by a woman of whether or not to have an abortion is a personal right encompassed by the right to privacy. Once the Court finds that a particular right is "fundamental," a state regulation limiting the right may be justified only by a "compelling state interest."[10] If the state does have a compelling interest, it may regulate in ways that are reasonably related to the interest.[11] But the regulation, even so, must be written to express only the legitimate state interest which it is advancing.[12] The Court reasoned that in regulating abortions, a state's interest in protecting health cannot become compelling until the end of the first trimester of pregnancy. Up until that time, according to medical statistics, it is safer for a woman to have an abortion than it is for her to continue pregnancy. The state interest in protecting the health of the mother is therefore minimal until the second trimester. After that time, the interest becomes compelling and the state may regulate abortions if the regulation is reasonably related to the interest of maternal health. The state also has a legitimate interest in protecting the potential life of the fetus, but this interest becomes compelling only when the fetus becomes viable.[13]

Regulations concerning abortions must leave the abortion decision to the woman and her physician during the first trimester. After the first trimester, the state, in its interest in maternal health, may regulate the abortion procedure, but only in ways that are reasonably related to protecting the woman's health. Once the fetus reaches viability, the state may then protect the interest of the fetus, and regulate or even proscribe abortions–except where the life or health of the mother is endangered. *Roe* also held that a state may require that all abortions be performed by a physician licensed in that state, during any of the trimesters.[14]

In *Doe v. Bolton,*[15] a companion decision to *Roe v. Wade,* the constitutionality of a Georgia abortion statute was challenged. The statute required that the hospital where the abortion was to be performed had to be accredited by the Joint Commission on the

10. *Id.* at 155.
11. *Id.* at 163.
12. *Id.* at 155.
13. *Id.* at 163.
14. *Id.* at 165.
15. Doe v. Bolton, 410 U.S. 179 (1973).

Accreditation of Hospitals. The Court found this provision constitutionally impermissible because it was not reasonably related to the purpose of insuring the quality of the operation and the full protection of the patient.[16] The statute also required that the abortion must first be approved by a hospital staff abortion committee, as well as two other physicians who had to confirm the need for an abortion. This requirement was found to be unconstitutional because the abortion decision should be left to the woman and her physician, and the challenged provisions did not advance any compelling state interest.[17] In addition, it unduly infringed upon the physician's right to practice.[18] Finally, the Court found that a residency requirement in the statute violated a person's right to travel interstate, and had no valid justification.[19]

These two cases illustrate how limited an abortion statute must be if it is to survive a test of constitutionality under the Fourteenth Amendment. Ideally, a statute should make a distinction between each trimester of pregnancy and regulate accordingly, because the state's power to regulate is different for each trimester. A state should also regulate with discretion. Its lawmakers should be aware that a woman does have a right to decide whether or not to obtain an abortion, without the state interfering in that process.

STATE REGULATION DURING THE FIRST AND SECOND TRIMESTERS

Requirement That Physician be Licensed

A state may require that the physician performing the abortion be duly licensed by the state, regardless of which trimester of pregnancy the woman is in.[20] This type of regulation is permissible because the state has an interest in protecting the health of the woman in general, as opposed to protecting maternal health. A licensing requirement is reasonable because it can hardly be argued that an abortion performed by any non-physician would be safer than a continuation of pregnancy.[21] Consequently, the state's interest extends at least to the point that it may require that the operation be done by a doctor. Also, the state infringement is no greater than it would be for any other medical operation.[22] New Mexico presently requires any person performing an abortion to be a licensed physician.

16. *Id.* at 194.
17. *Id.* at 197, 199.
18. *Id.* at 199.
19. *Id.* at 200.
20. Roe v. Wade, 410 U.S. 113, 165.
21. Connecticut v. Menillo, 423 U.S. 9 (1975) (per curiam).
22. N.M. Stat. Ann. § 61-6-18 (1978).

Pregnancy Must be Confirmed Before an Abortion Technique is Used

A state may also require that the physician determine that a woman is pregnant before performing an abortion. In *Planned Parenthood Ass'n. v. Fitzpatrick,*[23] the court found that menstrual extraction, a procedure sometimes used before there is an actual confirmation of pregnancy, posed a possible risk to the health of the woman. It was, therefore, an interest of the state to prevent non-pregnant women from undergoing the abortion procedure. But once a pregnancy has been confirmed, the state may no longer regulate the abortion procedure used until the end of the third month.

Informed Consent

The present New Mexico abortion statute[24] does not require the informed consent of the pregnant woman. Informed consent generally means that the consent to the abortion be freely given after the woman is informed of the procedures used and the possible consequences of the operation.[25] The New Mexico statute does require that the woman request the abortion before the physician may legally perform the operation.[26]

In *Planned Parenthood of Missouri v. Danforth,*[27] the United States Supreme Court considered a statute which required a woman to certify in writing "that her consent is informed and freely given and is not the result of coercion."[28] Arguably, such a statute has a chilling effect upon a woman's right to choose an abortion and interferes with the patient-physician relationship. It also requires procedures which are not used in other types of medical operations.[29] The Supreme Court upheld the statute, reasoning that written informed consent could be required for many types of operations, without having to require it for all operations, so the fact that it was required for abortions and not other operations does not make the provision unconstitutional. The Court recognized that the state has a legitimate interest in making sure that the woman is aware of her decision and its significance, and it may promote that interest to the extent of requiring her prior written consent. The state's interest

23. 401 F. Supp. 554 (E.D. Penn. 1975), *aff'd sub. nom.,* Franklin v. Fitzpatrick, 428 U.S. 901 (1976).
24. N.M. Stat. Ann. § § 30-5-1 to 3 (1978).
25. Planned Parenthood of Central Missouri v. Danforth, 428 U.S. 52, 67, n. 8 (1976).
26. N.M. Stat. Ann. § § 30-5-1 to 3 (1978).
27. 428 U.S. 52 (1976).
28. *Id.* at 65.
29. *Id.*

apparently stems from the concern that the decision is an important and stressful one, so it should be made with full knowledge of its nature and consequences.[30] The Court also quoted a District Court judge's concurring opinion that the written consent requirement was " 'not burdensome or chilling' and manifested 'a legitimate interest of the state that this important decision has in fact been made by the person constitutionally empowered to do so.' "[31]

An informed consent provision, therefore, could be written into any forthcoming legislation without being constitutionally objectionable, so long as it is limited in its requirements. But if it goes beyond the state interest being advanced and intereferes with the decision-making process of the woman and her physician, the provision may become not a safeguard but an intrusion.[32]

Parental Consent

New Mexico law now requires that minors obtain parental consent before having an abortion performed.[33] This particular provision was challenged in *State v. Strance,* but the court did not decide whether it was constitutional or not because the abortion in question was not performed upon a minor.[34] The New Mexico provision has not been challenged since, but it is now reasonably certain that it would be found unconstitutional.[35]

Several courts have addressed the parental consent issue,[36] and each, including the United States Supreme Court,[37] have found the

30. *Id.*

31. *Id.* at 66.

32. An example of an impermissible statute is one which was found unconstitutional in Illinois which stated:

> The informed consent shall state that the woman has been informed of the following:
>
> (a) The physical competency of the fetus at the time the abortion is to be performed, such as, but not limited to, what the fetus looks like, the fetus' ability to move, swallow and its physical characteristics;
>
> (b) The general dangers of abortion, including, but not limited to, the possibility of subsequent sterility, premature birth, live-born fetus and other dangers; and
>
> (c) The particular dangers of the procedure to be used.

Only sections (a) and (b) were found unconstitutional. Wynn v. Scott, 449 F. Supp. 1302, 1316 (N.D. Ill. 1978), *appeal dismissed,* 47 U.S.L.W. 3259.

33. N.M. Stat. Ann. § § 30-5-1 to 3 (1978).

34. 84 N.M. at 673, 506 P.2d at 1220 (Ct. App. 1973).

35. *See* Planned Parenthood of Central Missouri v. Danforth, 428 U.S. at 74 (1976).

36. Poe v. Gerstein, 517 F.2d 787 (5th Cir. 1975); Baird v. Bellotti, 393 F. Supp. 847 (D. Mass. 1975); Doe v. Zimmerman, 405 F. Supp. 534 (M.D. Pa. 1975); Foe v. Vanderhoof, 389 F. Supp. 947 (D. Colo. 1975); Planned Parenthood v. Fitzpatrick, 401 F. Supp. 554 (E.D. Pa. 1975); Wolfe v. Schroering, 383 F. Supp. 631 (W.D. Ky. 1974); Coe v. Gerstein, 376 F. Supp. 695 (S.D. Fla. 1973); Doe v. Rampton, 366 F. Supp. 189 (D. Utah 1973); State v. Koome, 84 Wash. 2d 901, 530 P.2d 260 (1975).

37. Planned Parenthood of Central Missouri v. Danforth, 428 U.S. 52 (1976).

statutes to be objectionable. The Supreme Court decided the issue in *Planned Parenthood of Central Missouri v. Danforth*[38] where it said that a state may not impose a blanket provision which requires the consent of a parent or guardian as a condition before an abortion may be performed upon an unmarried minor during the first trimester of pregnancy.[39] The Court came to its conclusion by first determining that a minor is protected by the Constitution and possesses constitutional rights the same as an adult.[40] But it also recognized that the state has greater authority in regulating the activities of children than it does in regulating adults.[41] For this reason, the state does not need a compelling interest in order to regulate a constitutionally protected right, but needs only a "significant state interest" to justify its intrusion.[42]

The interests advanced by the state were that the regulation helped to safeguard the family unit and that it helped enhance the authority of the parent over the child. But the Court did not believe that the family unit would be strengthened by such a provision, or that providing a parent with absolute power to overrule the decision of the minor and her physician would serve the state's asserted interest. The Court did not accept the argument that parental authority would be enhanced by the regulation because the non-consenting parent and the minor are already in a fundamental conflict, and the family structure has already been "fractured" by the pregnancy.[43] It was also noted that the independent interest of the parent in the abortion decision was no more weighty than the right of privacy which the minor, who is mature enough to become pregnant, is guaranteed under the Constitution.[44] In effect then, a state may not allow a parent to override the decision of the minor and her physician. It was emphasized, however, that the case does not stand for the proposition that "every minor, regardless of age or maturity, may give effective consent for termination of her pregnancy."[45]

The issue is again before the Court in *Bellotti v. Baird*,[46] where the Court will be reviewing the decision of a three-judge District Court which found a Massachusetts parental consent statute invalid.[47] The Bellotti case has an interesting procedural background

38. *Id.*
39. *Id.* at 74.
40. *Id.*
41. *Id.*
42. *Id.* at 75.
43. *Id.*
44. *Id.*
45. *Id.*
46. 47 U.S.L.W. 3292 (review granted).
47. Baird v. Bellotti, 450 F. Supp. 997 (D. Mass. 1978).

in that it has been reviewed by the United States Supreme Court once before.[48] Previously, the Court vacated a district court judgment holding the statute unconstitutional, because the Massachusetts Supreme Court had not yet construed the statute.[49] The statute was then certified to the state supreme court[50] which interpreted the statute as allowing a judge to give consent to an abortion for a minor where it is shown that, in spite of the disapproval of one or both parents, the best interests of the minor will be served if the abortion is performed. The statute also requires parental consultation unless it is an emergency or the parents are not available.[51] The district court again found the statute unconstitutional,[52] and the Supreme Court will again be reviewing its decision.[53] Hopefully, the Supreme Court will enunciate guidelines for states to follow in this area.

Spousal Consent

A state abortion statute which would require a husband's consent to an abortion during the first trimester would also be impermissible. Such a statute might be justified on the grounds that the state has an interest in regulating the marriage relationship and that it has an interest in protecting the rights of a husband. The Supreme Court has accepted neither argument, at least as applied to the first trimester of pregnancy.

In *Planned Parenthood of Central Missouri v. Danforth*, the Supreme Court agreed with a dissent to the lower court decision. The Court reasoned that the state may not delegate a veto power to the spouse during the first trimester when the state itself does not have the authority to veto the woman's decision.[54] The Court further stated that such a regulation would be an intrusion into the privacy associated with marriage.[55]

The Court recognized that the husband does have an interest in his wife's pregnancy and his potential child, but this interest is outweighed by the wife's interest. Where the two partners are in a disagreement such as this, one of the partners must prevail and the Court determined that it should be the wife. She is more directly affected by the pregnancy; it is she who must face the attendant

48. Bellotti v. Baird, 428 U.S. 132 (1976).
49. *Id.* at 152.
50. Baird v. Attorney General, ___Mass. ___, 360 N.E.2d 288 (1977).
51. *Id.* at 293.
52. 450 F. Supp. 997 (D. Mass. 1978).
53. 47 U.S.L.W. 3292 (review granted).
54. 428 U.S. at 69.
55. *Id.* at 70, n. 10.

risks. The husband may not have a unilateral veto power conferred upon him by the state.

If the decisions regarding parental and spousal consent are read narrowly, they would be applicable only during the first trimester of pregnancy.[56] During the second trimester, a state may only regulate in ways which are reasonably related to maternal health and it is hard to discern how a spousal veto power is related to maternal health.[57] Even if the third-party interests do not necessarily need to follow the same criteria as a state's interest, the cases suggest that third parties cannot exercise rights in the decision-making process which the state does not have.[58] Moreover, a statute requiring spousal consent may be overbroad if it does not distinguish between a spouse who is the father of the fetus and one who is not.[59] Additionally, a situation where the spouse cannot be located to give his consent may be envisioned. Consequently, a state is well advised not to require spousal consent during the first two trimesters of pregnancy.

THIRD TRIMESTER REGULATION

Viability

In *Roe v. Wade* the Court divided the period of a woman's pregnancy into trimesters for the purpose of regulation. The first trimester and the second trimester were distinguished from each other because of the relative hazards of an abortion as opposed to continuing pregnancy. The third trimester was said to be distinct from the second trimester because that is the approximate time at which viability of the fetus occurs. In *Roe,* the Court determined that the state may regulate or even proscribe abortions after the point of viability.[60] Viability is the time after which a fetus is capable of "meaningful life" outside the mother's womb.[61] The state's interest in protecting the fetus becomes "compelling" at that point, so it may regulate in an area protected by the right to privacy.

In *Danforth,* a statute which defined viability as "that stage of fetal development when the life of the unborn child may be con-

56. *See* Coe v. Gerstein, 376 F. Supp. 695 (S.D. Fla. 1973).

57. "It is of some interest to note that the condition does not relate, as most statutory conditions in this area do, to the preservation of the life or *health* of the mother." Planned Parenthood of Central Missouri v. Danforth, 428 U.S. 52, 68, n. 9 (1976).

58. *Id.* at 69.

59. *Id.* at 68-69.

60. 410 U.S. at 163, 164.

61. *Id.* at 163.

tinued indefinitely outside the womb by natural or artificial life-supportive systems" was challenged.[62] The Supreme Court upheld the provision as being in accordance with the standards enuniciated in *Roe*.[63] This indicates that a statute does not need to set a definite time period defining the time at which viability occurs, but may leave this decision to the attending physician. The Supreme Court, in fact, stated:

> It is not the proper function of the legislature or the courts to place viability, which essentially is a medical concept, at a specific point in the gestation period. The time when viability is achieved may vary with each pregnancy, and the determination of whether a particular fetus is viable is, and must be, a matter for the judgment of the responsible attending physician.[64]

The Board of Medical Examiners for the State of New Mexico has defined viability as the point at which a fetus is able, "after either spontaneous or induced delivery, to survive (given the benefit of available medical therapy) to the point of independently maintaining heartbeat and respiration."[65] While this definition would probably survive a test of constitutionality, it is unclear whether the term "available" means at the specific time and place where the abortion was performed or whether it means therapy generally available to the medical community.

Physician's Standard of Care

A state may prescribe the standard of care to be exercised with regard to aborted but viable fetuses.[66] In *Danforth*, the Supreme Court considered a statute which required the physician to exercise:

> that degree of professional skill, care and diligence to preserve the life and health of the fetus which such person would be required to exercise in order to preserve the life and health of any fetus intended to be born and not aborted.[67]

The statute was found unconstitutional because it failed to specify that the standard only applied to a fetus which is viable. New Mexico has a statute which requires the Board of Medical Examiners to "set forth the standard of care for infants born alive."[68] A problem could

62. 428 U.S. at 63.
63. *Id.*
64. *Id.* at 64.
65. Rule 17, *supra* note 6.
66. Wynn v. Scott, 449 F. Supp. 1302 (N.D. Ill. 1978).
67. 428 U.S. at 82.
68. N.M. Stat. Ann. § 61-6-20 (1978).

occur because the statute's definition for live-birth is not the same as viability, and would include non-viable fetuses. The Board has not promulgated a standard to be applied towards viable fetuses, however, except concerning experimentation.

RELATED ISSUES

Recording Requirements

The *Danforth* case also addressed the issue of whether a state may require that records of all abortions be kept by the attending physician. The challenged statute required that the name of the pregnant woman be recorded, but it also provided that the records be kept confidential. The Court indicated that a recording statute such as this is constitutional so long as it is not abused or overdone. It is questionable whether this result would have been reached if there had not been a confidentiality provision. If the records were left open to public scrutiny, a recording requirement might unduly interfere with a woman's decision because of the stigma attached to the procedure.

New Mexico presently requires that a report of each induced abortion which is performed in the state be filed with the Department of Vital Statistics by the physician performing the abortion or by the institution where it was performed.[69] It is not permissible for the report to include the names or addresses of either the patient or the physician. This type of requirement is less subject to abuse than the one considered in *Danforth,* and would also be an insignificant intrusion into the woman's decision. The New Mexico recording statute, therefore, is undoubtedly constitutional under the present standards.

Regulation of Institutions

Regulations governing abortion clinics which give first trimester abortions would probably be unconstitutional, as violative of the equal protection clause of the Fourteenth Amendment, unless the regulations are applied equally to all types of medical clinics.[70] The regulation of abortion clinics may also be invalid simply because it is an unwarranted interference by the state into the decision of the physician and the patient.[71] Types of regulations which have been held invalid are those which required that the first trimester abortion be performed in a hospital or licensed health facility;[72] those which

69. N.M. Stat. Ann. § 24-14-18 (1978).
70. Friendship Medical Center, Ltd. v. Chicago Board of Health, 505 F.2d 1141 (7th Cir. 1974) *cert. denied* 420 U.S. 997 (1975).
71. Arnold v. Sendak, 416 F. Supp. 22 (S.D. Ind. 1976) *aff'd* 429 U.S. 969 (1976).
72. *Id.* at 22-23.

regulated, in detail, conditions, equipment and procedures that abortion facilities must comply with;[73] and a regulation which required that the abortion clinic have a transfer agreement with a local hospital and an emergency transportation service which would assure that the patient could be taken to a hospital within 15 minutes.[74] Such regulations may be permissible, however, if they are applied only during the second and third trimesters of pregnancy and are reasonably related to maternal health or fetal health considerations, respectively.

CONCLUSION

Abortion statutes should reflect the three stages of pregnancy in order to differentiate between the allowable considerations for each trimester. During the first trimester, the state may not interfere with a woman's right to choose to obtain an abortion.[75] During the second and third trimesters of pregnancy, the state may regulate in the interest of maternal health, but the regulations must be reasonably related to that interest and cannot be overbroad.[76] As soon as the fetus reaches viability, the state may regulate abortions in the interest of the potential life of the fetus, even to the extent of proscribing the operation unless the life or health of the mother is endangered.[77] These considerations apply regardless of the age or marital status of the woman. Emotions and political controversy surround the abortion issues, but nonetheless, the Supreme Court has interpreted the Constitution as guaranteeing a woman's right to make the abortion decision free from state interference.

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73. Friendship Medical Center, Ltd. v. Chicago Board of Health, 505 F.2d 1141, 1144-45 (7th Cir. 1974) *cert. denied* 420 U.S. 997 (1975).

74. Hallmark Clinic v. North Carolina Dept. of Human Resources, 380 F. Supp. 1153 (E.D. N.C. 1974).

75. Roe v. Wade, 410 U.S. 113 (1973).

76. *Id.*

77. *Id.*