



When judges play doctor

Anti-'Roe' cue marks ominous ruling

You wonder if Anthony Kennedy was writing about the case at hand or just rehearsing. Rehearsing, that is, for his opportunity to write about another case, that which overturns Roe vs. Wade.

"Government has a legitimate and substantial interest in preserving and promoting fetal life," Justice Kennedy wrote for a 5-4 court majority. Your honor, what court challenge are we talking about?

The ruling in *Gonzales v. Cathart* isn't about protecting fetal life. It is solely about intervening in a decision related to women's health. The Partial-Birth Abortion Act of 2003, which it upholds, would not, will not protect a single fetus.

This is about one rare procedure designed to protect a woman's health when a doctor decides it is the best way. Proponents of the ban on "partial birth abortion" acknowledge that doctors could perform other procedures in the same contingency, particularly late-term, including cesarian section.

And why would they end the pregnancy through the procedure called intact dilation and extraction? For one: Because the fetus is judged to be unable to survive outside the womb. I once interviewed a woman who had the procedure. The life inside her would have been dead moments after it left her. Its brain was outside its head.

The procedure was recommended so as not to compromise her ability to have other children, which she later did. Now, under this ruling, she and her doctor would have fewer choices. But if medically necessary, the abortion would proceed in another way, maybe one that's less safe.

One procedure down

Maybe that's the next frontier in "fetal protection" — show trials of each way therapeutic abortions can be and are performed.

The amazing thing about how this obscure matter became a centerpiece to the abortion-rights debate is this: It hits smack-dab upon the No. 1 reason why abortion rights must be protected. It's about women's health. The nation's anti-choice minority uses "partial birth



JOHN YOUNG

Opinion page editor

abortion" only as a political device to mark its territory toward a bigger ambition.

That would be, state by state, a ban on all abortions. It is something that, like occupying Iraq until Jehovah's return, most Americans most decidedly don't want. But just watch agents of zeal seek the one-vote majority they need to pull it off.

This week a bill that would ban abortion post-Roe appeared to be dead in the Texas Legislature. The ban proposed by State Rep. Warren Chisum, R-Pampa, would allow abortion only to protect a woman's life.

That would mean forcing a 14-year-old who was inseminated by a rapist or by her Uncle Ned to gestate to term, even if she could have taken RU 483 to abort in the earliest stages. That alone, or the prospect of back-alley abortions in waves, should convince lawmakers how terrible such a policy would be.

Stunningly, what appears to have convinced the House to steer clear is the stuff that jingles and jangles. The Legislative Budget Board judged that 63,000 unwanted births over three years under this bill could cost the state more than \$400 million in health-care costs.

Never did I think I'd see my lips form around a "right on" to a decision dictated by Texas' lawmakers' death-grip on a dime. But, right on.

The extent to which a new Supreme Court majority now telegraphs its intent to overturn Roe puts as never before the onus on those who run for statehouse and governors' mansions. For voters, brush-off answers about abortion rights shouldn't fly anymore. You say you're "pro-life," Mr. or Ms. Candidate? To what extent would you limit abortion? What exceptions would you allow, and how could those exceptions be enforced? Exception of rape? How demonstrable? Medical necessity? Who decides?

Apparently the new Supreme Court majority thinks physicians and the mothers under their care are wholly secondary, so that decision would fall to you. That is, if you think you're more qualified than they.

John Young's column appears Thursday and Sunday. E-mail: jyoung@wacotrib.com.