CHAPTER 7 DOCUMENTS

Amendments to the Constitution

Amendment XXII

Section 1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.

Section 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

Amendment XXIII

Section 1. The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct:
A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth article of amendment.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

Amendment XXIV

Section 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or

Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

Amendment XXV

Section 1. In case of the removal of the President from office or of his death or resignation, the Vice President shall become President.

Section 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take office upon confirmation by a majority vote of both Houses of Congress.

Section 3. Whenever the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

Section 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within forty-eight hours for that purpose if not in session. If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

Amendment XXVI

Section 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

Amendment XXVII

No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.

Syllabi of Supreme Court Decisions

Brown et al. v. Board of Education of Topeka et al., 347 U.S. 483 (1954)

Syllabus (Legal Information Institute of Cornell University)

Argued: Argued December 9, 1952 – Reargued December 8, 1953 – Decided: Decided May 17, 1954

Segregation of white and Negro children in the public schools of a State solely on the basis of race, pursuant to state laws permitting or requiring such segregation, denies to Negro children the equal protection of the laws guaranteed by the Fourteenth Amendment – even though the physical facilities and other "tangible" factors of white and Negro schools may be equal. Pp. 486-496.

(a) The history of the Fourteenth Amendment is inconclusive as to its intended effect on public education. Pp. 489-490.

(b) The question presented in these cases must be determined not on the basis of conditions existing when the Fourteenth Amendment was adopted, but in the light of the full development of public education and its present place in American life throughout the Nation. Pp. 492-493.

(c) Where a State has undertaken to provide an opportunity for an education in its public schools, such an opportunity is a right which must be made available to all on equal terms. P. 493.

(d) Segregation of children in public schools solely on the basis of race deprives children of the minority group of equal educational opportunities, even though the physical facilities and other "tangible" factors may be equal. Pp. 493-494.

(e) The "separate but equal" doctrine adopted in Plessy v. Ferguson, 163 U.S. 537, has no place in the field of public education. P. 495.

(f) The cases are restored to the docket for further argument on specified questions relating to the forms of the decrees. Pp. 495-496.

(The complete document can be found in <http://www.law.cornell.edu/supct/html/historics/USSC_CR_0347_0483_ZO.html> [verified May 30, 2012].)

Miranda v. Arizona, 384 U.S. 436 (1966)

Syllabus (Legal Information Institute of Cornell University)

Argued: February 28-March 1, 1966 – Decided: June 13, 1966

In each of these cases, the defendant, while in police custody, was questioned by police officers, detectives, or a prosecuting attorney in a room in which he was cut off from the outside world. None of the defendants was given a full and effective warning of his rights at the outset of the interrogation process. In all four cases, the questioning elicited oral admissions, and, in three of them, signed statements as well, which were admitted at their trials. All defendants were convicted, and all convictions, except in No. 584, were affirmed on appeal.

Held:

1. The prosecution may not use statements, whether exculpatory or inculpatory, stemming from questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way, unless it demonstrates the use of procedural safeguards effective to secure the Fifth Amendment's privilege against self-incrimination. Pp. 444-491.

(a) The atmosphere and environment of incommunicado interrogation as it exists today is inherently intimidating, and works to undermine the privilege against self-incrimination. Unless adequate preventive measures are taken to dispel the compulsion inherent in custodial surroundings, no statement obtained from the defendant can truly be the product of his free choice. Pp. 445-458.

(b) The privilege against self-incrimination, which has had a long and expansive historical development, is the essential mainstay of our adversary system, and guarantees to the individual the "right to remain silent unless he chooses to speak in the unfettered exercise of his own will," during a period of custodial interrogation [p437] as well as in the courts or during the course of other official investigations. Pp. 458-465.

(c) The decision in Escobedo v. Illinois, 378 U.S. 478, stressed the need for protective devices to make the process of police interrogation conform to the dictates of the privilege. Pp. 465-466.

(d) In the absence of other effective measures, the following procedures to safeguard the Fifth Amendment privilege must be observed: the person in custody must, prior to interrogation, be clearly informed that he has the right to remain silent, and that anything he says will be used against him in court; he must be clearly informed that he has the right to consult with a

lawyer and to have the lawyer with him during interrogation, and that, if he is indigent, a lawyer will be appointed to represent him. Pp. 467-473.

(e) If the individual indicates, prior to or during questioning, that he wishes to remain silent, the interrogation must cease; if he states that he wants an attorney, the questioning must cease until an attorney is present. Pp. 473-474.

(f) Where an interrogation is conducted without the presence of an attorney and a statement is taken, a heavy burden rests on the Government to demonstrate that the defendant knowingly and intelligently waived his right to counsel. P. 475.

(g) Where the individual answers some questions during in-custody interrogation, he has not waived his privilege, and may invoke his right to remain silent thereafter. Pp. 475-476.

(h) The warnings required and the waiver needed are, in the absence of a fully effective equivalent, prerequisites to the admissibility of any statement, inculpatory or exculpatory, made by a defendant. Pp. 476-477.

2. The limitations on the interrogation process required for the protection of the individual's constitutional rights should not cause an undue interference with a proper system of law enforcement, as demonstrated by the procedures of the FBI and the safeguards afforded in other jurisdictions. Pp. 479-491.

3. In each of these cases, the statements were obtained under circumstances that did not meet constitutional standards for protection of the privilege against self-incrimination. Pp. 491-499.

(The complete document can be found in <http://www.law.cornell.edu/supct/html/historics/USSC_CR_0384_0436_ZS.html> [verified May 30, 2012].)

Jane Roe, et al. v. Henry Wade, District Attorney of Dallas County, 410 U.S. 113 (1973)

Syllabus (Legal Information Institute of Cornell University)

Argued: December 13, 1971 – Decided: January 22, 1973

A pregnant single woman (Roe) brought a class action challenging the constitutionality of the Texas criminal abortion laws, which proscribe procuring or attempting an abortion except on medical advice for the purpose of saving the mother's life. A licensed physician (Hallford), who had two state abortion prosecutions pending against him, was permitted to intervene. A childless married couple (the Does), the wife not being pregnant, separately attacked the laws, basing alleged injury on the future possibilities of contraceptive failure, pregnancy, unpreparedness for parenthood, and impairment of the wife's health. A three-judge District Court, which consolidated the actions, held that Roe and Hallford, and members of their classes, had standing to sue and presented justiciable controversies. Ruling that declaratory, though not injunctive, relief was warranted, the court declared the abortion statutes void as vague and overbroadly infringing those plaintiffs' Ninth and Fourteenth Amendment rights.

The court ruled the Does' complaint not justiciable. Appellants directly appealed to this Court on the injunctive rulings, and appellee cross-appealed from the District Court's grant of declaratory relief to Roe and Hallford.

Held:

1. While 28 U.S.C. § 1253 authorizes no direct appeal to this Court from the grant or denial of declaratory relief alone, review is not foreclosed when the case is properly before the Court on appeal from specific denial of injunctive relief and the arguments as to both injunctive and declaratory relief are necessarily identical. P. 123.

2. Roe has standing to sue; the Does and Hallford do not. Pp. 123-129.

(a) Contrary to appellee's contention, the natural termination of Roe's pregnancy did not moot her suit. Litigation involving pregnancy, which is "capable of repetition, yet evading review," is an exception to the usual federal rule that an actual controversy [p114] must exist at review stages, and not simply when the action is initiated. Pp. 124-125.

(b) The District Court correctly refused injunctive, but erred in granting declaratory, relief to Hallford, who alleged no federally protected right not assertable as a defense against the good faith state prosecutions pending against him. Samuels v. Mackell, 401 U.S. 66. Pp. 125-127.

(c) The Does' complaint, based as it is on contingencies, any one or more of which may not occur, is too speculative to present an actual case or controversy. Pp. 127-129.

3. State criminal abortion laws, like those involved here, that except from criminality only a life-saving procedure on the mother's behalf without regard to the stage of her pregnancy and other interests involved violate the Due Process Clause of the Fourteenth Amendment, which protects against state action the right to privacy, including a woman's qualified right to terminate her pregnancy. Though the State cannot override that right, it has legitimate interests in protecting both the pregnant woman's health and the potentiality of human life, each of which interests grows and reaches a "compelling" point at various stages of the woman's approach to term. Pp. 147-164.

(a) For the stage prior to approximately the end of the first trimester, the abortion decision and its effectuation must be left to the medical judgment of the pregnant woman's attending physician. Pp. 163, 164.

(b) For the stage subsequent to approximately the end of the first trimester, the State, in promoting its interest in the health of the mother, may, if it chooses, regulate the abortion procedure in ways that are reasonably related to maternal health. Pp. 163, 164.

(c) For the stage subsequent to viability the State, in promoting its interest in the potentiality of human life, may, if it chooses, regulate, and even proscribe, abortion except where necessary, in appropriate medical judgment, for the preservation of the life or health of the mother. Pp. 163-164; 164-165.

4. The State may define the term "physician" to mean only a physician currently licensed by the State, and may proscribe any abortion by a person who is not a physician as so defined. P. 165.

5. It is unnecessary to decide the injunctive relief issue, since the Texas authorities will doubtless fully recognize the Court's ruling [p115] that the Texas criminal abortion statutes are unconstitutional. P. 166.

BLACKMUN, J., delivered the opinion of the Court, in which BURGER, C.J., and DOUGLAS, BRENNAN, STEWART, MARSHALL, and POWELL, JJ., joined. BURGER, C.J., post, p. 207, DOUGLAS, J., post, p. 209, and STEWART, J., post, p. 167, filed concurring opinions. WHITE, J., filed a dissenting opinion, in which REHNQUIST, J., joined, post, p. 221. REHNQUIST, J., filed a dissenting opinion, post, p. 171. [p 116]

(The complete document can be found in <http://www.law.cornell.edu/supct/html/historics/USSC_CR_0410_0113_ZS.html> [verified May 30, 2012].)

James Plyler, Superintendent, Tyler Independent School District, et al. v. John Doe, et al., 457 U.S. 202 (1982)

Syllabus (Legal Information Institute of Cornell University)

Argued: December 1, 1981 – Decided: June 15, 1982

Held: A Texas statute which withholds from local school districts any state funds for the education of children who were not "legally admitted" into the United States, and which authorizes local school districts to deny enrollment to such children, violates the Equal Protection Clause of the Fourteenth Amendment.

Pp. 210-230.

(a) The illegal aliens who are plaintiffs in these cases challenging the statute may claim the benefit of the Equal Protection Clause, which provides that no State shall "deny to any person within its jurisdiction the equal protection of the laws." Whatever his status under the immigration laws, an alien is a "person" in any ordinary sense of that term. This Court's prior cases recognizing that illegal aliens are "persons" protected by the Due Process Clauses of the Fifth and Fourteenth Amendments, which Clauses do not include the phrase "within its jurisdiction," cannot be distinguished on the asserted ground that persons who have entered the country illegally are not "within the jurisdiction" of a State even if they are present within its boundaries and subject to its laws. Nor do the logic and history of the Fourteenth Amendment support such a construction. Instead, use of the phrase "within its jurisdiction" confirms the understanding that the Fourteenth Amendment's protection extends to anyone, citizen or stranger, who is subject to the laws of a State, and reaches into every corner of a State's territory. Pp. 210-216.

(b) The discrimination contained in the Texas statute cannot be considered rational unless it furthers some substantial goal of the State. Although undocumented resident aliens cannot be treated as a "suspect class," and although education is not a "fundamental right," so as to require the State to justify the statutory classification by showing that it serves a compelling governmental interest, nevertheless the Texas statute imposes a lifetime hardship on a discrete class of children not accountable for their disabling status. These children can

neither affect their parents' conduct nor their own undocumented status. The deprivation [p203] of public education is not like the deprivation of some other governmental benefit. Public education has a pivotal role in maintaining the fabric of our society and in sustaining our political and cultural heritage; the deprivation of education takes an inestimable toll on the social, economic, intellectual, and psychological wellbeing of the individual, and poses an obstacle to individual achievement. In determining the rationality of the Texas statute, its costs to the Nation and to the innocent children may properly be considered. Pp. 216-224.

(c) The undocumented status of these children vel non does not establish a sufficient rational basis for denying them benefits that the State affords other residents. It is true that, when faced with an equal protection challenge respecting a State's differential treatment of aliens, the courts must be attentive to congressional policy concerning aliens. But in the area of special constitutional sensitivity presented by these cases, and in the absence of any contrary indication fairly discernible in the legislative record, no national policy is perceived that might justify the State in denying these children an elementary education. Pp. 224-226.

(d) Texas' statutory classification cannot be sustained as furthering its interest in the "preservation of the state's limited resources for the education of its lawful residents." While the State might have an interest in mitigating potentially harsh economic effects from an influx of illegal immigrants, the Texas statute does not offer an effective method of dealing with the problem. Even assuming that the net impact of illegal aliens on the economy is negative, charging tuition to undocumented children constitutes an ineffectual attempt to stem the tide of illegal immigration, at least when compared with the alternative of prohibiting employment of illegal aliens. Nor is there any merit to the suggestion that undocumented children are appropriately singled out for exclusion because of the special burdens they impose on the State's ability to provide high-quality public education. The record does not show that exclusion of undocumented children is likely to improve the overall quality of education in the State. Neither is there any merit to the claim that undocumented children are appropriately singled out because their unlawful presence within the United States renders them less likely than other children to remain within the State's boundaries and to put their education to productive social or political use within the State. Pp. 227-230.

No. 80-1638, 628 F.2d 448, and No. 80-1934, affirmed.

BRENNAN, J., delivered the opinion of the Court, in which MARSHALL, BLACKMUN, POWELL, and STEVENS, JJ., joined. MARSHALL, J.,post, p. 230, BLACKMUN, J., post, p. 231, and POWELL, J., post, p. 236, filed concurring opinions. BURGER, C.J., filed a dissenting opinion, in which WHITE, REHNQUIST, and O'CONNOR, JJ., joined,post, p. 242. [p 205]

(The complete document can be found in <http://www.law.cornell.edu/supct/html/historics/USSC_CR_0457_0202_ZO.html> [verified May 30, 2012].)

Planned Parenthood of Southeastern Pennsylvania et al. v. Casey, Governor of Pennsylvania, et al., 505 U.S. 833 (1992)

Syllabus (Legal Information Institute of Cornell University)

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See United States v. Detroit Lumber Co., 200 U.S. 321, 337.

Argued April 22, 1992 – Decided June 29, 1992

At issue are five provisions of the Pennsylvania Abortion Control Act of 1982: § 3205, which requires that a woman seeking an abortion give her informed consent prior to the procedure, and specifies that she be provided with certain information at least 24 hours before the abortion is performed; § 3206, which mandates the informed consent of one parent for a minor to obtain an abortion, but provides a judicial bypass procedure; § 3209, which commands that, unless certain exceptions apply, a married woman seeking an abortion must sign a statement indicating that she has notified her husband; § 3203, which defines a "medical emergency" that will excuse compliance with the foregoing requirements; and §§ 3207(b), 3214(a), and 3214(f), which impose certain reporting requirements on facilities providing abortion services. Before any of the provisions took effect, the petitioners, five abortion clinics and a physician representing himself and a class of doctors who provide abortion services, brought this suit seeking a declaratory judgment that each of the provisions was unconstitutional on its face, as well as injunctive relief. The District Court held all the provisions unconstitutional and permanently enjoined their enforcement. The Court of Appeals affirmed in part and reversed in part, striking down the husband notification provision but upholding the others.

Held: The judgment in No. 91-902 is affirmed; the judgment in No. 91-744 is affirmed in part and reversed in part, and the case is remanded.

947 F. 2d 682: No. 91-902, affirmed; No. 91-744, affirmed in part, reversed in part, and remanded.

Justice O'Connor, Justice Kennedy, and Justice Souter delivered the opinion of the Court with respect to Parts I, II, and III, concluding that:

1. Consideration of the fundamental constitutional question resolved by Roe v. Wade, 410 U.S. 113, principles of institutional integrity, and the rule of stare decisis require that Roe's essential holding be retained and reaffirmed as to each of its three parts: (1) a recognition of a woman's right to choose to have an abortion before fetal viability and to obtain it without undue interference from the State, whose previability interests are not strong enough to support an abortion prohibition or the imposition of substantial obstacles to the woman's effective right to elect the procedure; (2) a confirmation of the State's power to restrict abortions after viability, if the law contains exceptions for pregnancies endangering a woman's life or health; and (3) the principle that the State has legitimate interests from the outset of the pregnancy in protecting the health of the woman and the life of the fetus that may become a child. Pp. 1-27.

(a) A reexamination of the principles that define the woman's rights and the State's authority regarding abortions is required by the doubt this Court's subsequent decisions have cast upon the meaning and reach of Roe's central holding, by the fact that The Chief Justice would

overrule Roe, and by the necessity that state and federal courts and legislatures have adequate guidance on the subject. Pp. 1-3.

(b) Roe determined that a woman's decision to terminate her pregnancy is a "liberty" protected against state interference by the substantive component of the Due Process Clause of the Fourteenth Amendment. Neither the Bill of Rights nor the specific practices of States at the time of the Fourteenth Amendment's adoption marks the outer limits of the substantive sphere of such "liberty." Rather, the adjudication of substantive due process claims may require this Court to exercise its reasoned judgment in determining the boundaries between the individual's liberty and the demands of organized society. The Court's decisions have afforded constitutional protection to personal decisions relating to marriage, see, e. g., Loving v. Virginia, 388 U.S. 1, procreation, Skinner v. Oklahoma, 316 U.S. 535, family relationships, Prince v. Massachusetts, 321 U.S. 158, child rearing and education, Pierce v. Society of Sisters, 268 U.S. 510, and contraception, see, e. g., Griswold v. Connecticut, 381 U.S. 479, and have recognized the right of the individual to be free from unwarranted governmental intrusion into matters so fundamentally affecting a person as the decision whether to bear or beget a child, Eisenstadt v. Baird, 405 U.S. 438, 453. Roe's central holding properly invoked the reasoning and tradition of these precedents. Pp. 4-11.

(c) Application of the doctrine of stare decisis confirms that Roe's essential holding should be reaffirmed. In reexamining that holding, the Court's judgment is informed by a series of prudential and pragmatic considerations designed to test the consistency of overruling the holding with the ideal of the rule of law, and to gauge the respective costs of reaffirming and overruling. Pp. 11-13.

(d) Although Roe has engendered opposition, it has in no sense proven unworkable, representing as it does a simple limitation beyond which a state law is unenforceable. P. 13.

(e) The Roe rule's limitation on state power could not be repudiated without serious inequity to people who, for two decades of economic and social developments, have organized intimate relationships and made choices that define their views of themselves and their places in society, in reliance on the availability of abortion in the event that contraception should fail. The ability of women to participate equally in the economic and social life of the Nation has been facilitated by their ability to control their reproductive lives. The Constitution serves human values, and while the effect of reliance on Roe cannot be exactly measured, neither can the certain costs of overruling Roe for people who have ordered their thinking and living around that case be dismissed. Pp. 13-14.

(f) No evolution of legal principle has left Roe's central rule a doctrinal anachronism discounted by society. If Roe is placed among the cases exemplified by Griswold, supra, it is clearly in no jeopardy, since subsequent constitutional developments have neither disturbed, nor do they threaten to diminish, the liberty recognized in such cases. Similarly, if Roe is seen as stating a rule of personal autonomy and bodily integrity, akin to cases recognizing limits on governmental power to mandate medical treatment or to bar its rejection, this Court's post-Roe decisions accord with Roe's view that a State's interest in the protection of life falls short of justifying any plenary override of individual liberty claims. See, e. g., Cruzan v. Director, Missouri Dept. of Health, 497 U. S. ____, ____. Finally, if Roe is classified as sui generis, there clearly has been no erosion of its central determination. It was expressly reaffirmed in Akron v. Akron Center for Reproductive Health, 462 U.S. 416 (Akron I), and Thornburgh v. American College of Obstetricians and Gynecologists,476 U.S. 747; and, in

Webster v. Reproductive Health Services, 492 U.S. 490, a majority either voted to reaffirm or declined to address the constitutional validity of Roe's central holding. Pp. 14-17.

(g) No change in Roe's factual underpinning has left its central holding obsolete, and none supports an argument for its overruling. Although subsequent maternal health care advances allow for later abortions safe to the pregnant woman, and post-Roe neonatal care developments have advanced viability to a point somewhat earlier, these facts go only to the scheme of time limits on the realization of competing interests. Thus, any later divergences from the factual premises of Roe have no bearing on the validity of its central holding, that viability marks the earliest point at which the State's interest in fetal life is constitutionally adequate to justify a legislative ban on nontherapeutic abortions. The soundness or unsoundness of that constitutional judgment in no sense turns on when viability occurs. Whenever it may occur, its attainment will continue to serve as the critical fact. Pp. 17-18.

(h) A comparison between Roe and two decisional lines of comparable significance--the line identified with *Lochner v. New York*, 198 U.S. 45, and the line that began with *Plessy v. Ferguson*, 163 U.S. 537--confirms the result reached here. Those lines were overruled--by, respectively, *West Coast Hotel Co. v. Parrish*, 330 U.S. 379, and *Brown v. Board of Education*, 347 U.S. 483--on the basis of facts, or an understanding of facts, changed from those which furnished the claimed justifications for the earlier constitutional resolutions. The overruling decisions were comprehensible to the Nation, and defensible, as the Court's responses to changed circumstances. In contrast, because neither the factual underpinnings of Roe's central holding nor this Court's understanding of it has changed (and because no other indication of weakened precedent has been shown), the Court could not pretend to be reexamining Roe with any justification beyond a present doctrinal disposition to come out differently from the Roe Court. That is an inadequate basis for overruling a prior case. Pp. 19-22.

(i) Overruling Roe's central holding would not only reach an unjustifiable result under stare decisis principles, but would seriously weaken the Court's capacity to exercise the judicial power and to function as the Supreme Court of a Nation dedicated to the rule of law. Where the Court acts to resolve the sort of unique, intensely divisive controversy reflected in Roe, its decision has a dimension not present in normal cases and is entitled to rare precedential force to counter the inevitable efforts to overturn it and to thwart its implementation. Only the most convincing justification under accepted standards of precedent could suffice to demonstrate that a later decision overruling the first was anything but a surrender to political pressure and an unjustified repudiation of the principle on which the Court staked its authority in the first instance. Moreover, the country's loss of confidence in the Judiciary would be underscored by condemnation for the Court's failure to keep faith with those who support the decision at a cost to themselves. A decision to overrule Roe's essential holding under the existing circumstances would address error, if error there was, at the cost of both profound and unnecessary damage to the Court's legitimacy and to the Nation's commitment to the rule of law. Pp. 22-27.

Justice O'Connor, Justice Kennedy, and Justice Souter concluded in Part IV that an examination of Roe v. Wade, 410 U.S. 113, and subsequent cases, reveals a number of guiding principles that should control the assessment of the Pennsylvania statute:

(a) To protect the central right recognized by Roe while at the same time accommodating the State's profound interest in potential life, see, id., at 162, the undue burden standard should be employed. An undue burden exists, and therefore a provision of law is invalid, if its

purpose or effect is to place substantial obstacles in the path of a woman seeking an abortion before the fetus attains viability.

(b) Roe's rigid trimester framework is rejected. To promote the State's interest in potential life throughout pregnancy, the State may take measures to ensure that the woman's choice is informed. Measures designed to advance this interest should not be invalidated if their purpose is to persuade the woman to choose childbirth over abortion. These measures must not be an undue burden on the right.

(c) As with any medical procedure, the State may enact regulations to further the health or safety of a woman seeking an abortion, but may not impose unnecessary health regulations that present a substantial obstacle to a woman seeking an abortion.

(d) Adoption of the undue burden standard does not disturb Roe's holding that regardless of whether exceptions are made for particular circumstances, a State may not prohibit any woman from making the ultimate decision to terminate her pregnancy before viability.

(e) Roe's holding that "subsequent to viability, the State in promoting its interest in the potentiality of human life may, if it chooses, regulate, and even proscribe, abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother" is also reaffirmed. Id., at 164-165. Pp. 27-37.

Justice O'Connor, Justice Kennedy, and Justice Souter delivered the opinion of the Court with respect to Parts V-A and V-C, concluding that:

1. As construed by the Court of Appeals, § 3203's medical emergency definition is intended to assure that compliance with the State's abortion regulations would not in any way pose a significant threat to a woman's life or health, and thus does not violate the essential holding of Roe, supra, at 164. Although the definition could be interpreted in an unconstitutional manner, this Court defers to lower federal court interpretations of state law unless they amount to "plain" error. Pp. 38-39.

2. Section 3209's husband notification provision constitutes an undue burden and is therefore invalid. A significant number of women will likely be prevented from obtaining an abortion just as surely as if Pennsylvania had outlawed the procedure entirely. The fact that § 3209 may affect fewer than one percent of women seeking abortions does not save it from facial invalidity, since the proper focus of constitutional inquiry is the group for whom the law is a restriction, not the group for whom it is irrelevant. Furthermore, it cannot be claimed that the father's interest in the fetus' welfare is equal to the mother's protected liberty, since it is an inescapable biological fact that state regulation with respect to the fetus will have a far greater impact on the pregnant woman's bodily integrity than it will on the husband. Section 3209 embodies a view of marriage consonant with the common law status of married women but repugnant to this Court's present understanding of marriage and of the nature of the rights secured by the Constitution. See Planned Parenthood of Central Mo. v. Danforth, 428 U.S. 52, 69. Pp. 46-58.

Justice O'Connor, Justice Kennedy, and Justice Souter, joined by Justice Stevens, concluded in Part V-E that all of the statute's recordkeeping and reporting requirements, except that relating to spousal notice, are constitutional. The reporting provision relating to the reasons a married woman has not notified her husband that she intends to have an abortion must be invalidated because it places an undue burden on a woman's choice. Pp. 59-60.

Justice O'Connor, Justice Kennedy, and Justice Souter concluded in Parts V-B and V-D that:

1. Section 3205's informed consent provision is not an undue burden on a woman's constitutional right to decide to terminate a pregnancy. To the extent Akron I, 462 U. S., at 444, and Thornburgh, 476 U. S., at 762, find a constitutional violation when the government requires, as it does here, the giving of truthful, nonmisleading information about the nature of the abortion procedure, the attendant health risks and those of childbirth, and the "probable gestational age" of the fetus, those cases are inconsistent with Roe's acknowledgement of an important interest in potential life, and are overruled. Requiring that the woman be informed of the availability of information relating to the consequences to the fetus does not interfere with a constitutional right of privacy between a pregnant woman and her physician, since the doctor-patient relation is derivative of the woman's position, and does not underlie or override the abortion right. Moreover, the physician's First Amendment rights not to speak are implicated only as part of the practice of medicine, which is licensed and regulated by the State. There is no evidence here that requiring a doctor to give the required information would amount to a substantial obstacle to a woman seeking abortion.

The premise behind Akron I's invalidation of a waiting period between the provision of the information deemed necessary to informed consent and the performance of an abortion, id., at 450, is also wrong. Although § 3205's 24-hour waiting period may make some abortions more expensive and less convenient, it cannot be said that it is invalid on the present record and in the context of this facial challenge. Pp. 39-46.

2. Section 3206's one parent consent requirement and judicial bypass procedure are constitutional. See, e. g., Ohio v. Akron Center for Reproductive Health, 497 U. S. ___, ___. Pp. 58-59.

Justice Blackmun concluded that application of the strict scrutiny standard of review required by this Court's abortion precedents results in the invalidation of all the challenged provisions in the Pennsylvania statute, including the reporting requirements, and therefore concurred in the judgment that the requirement that a pregnant woman report her reasons for failing to provide spousal notice is unconstitutional. Pp. 10, 14-15.

The Chief Justice, joined by Justice White, Justice Scalia, and Justice Thomas, concluded that:

1. Although Roe v. Wade, 410 U.S. 113, is not directly implicated by the Pennsylvania statute, which simply regulates and does not prohibit abortion, a reexamination of the "fundamental right" Roe accorded to a woman's decision to abort a fetus, with the concomitant requirement that any state regulation of abortion survive "strict scrutiny," id., at 154-156, is warranted by the confusing and uncertain state of this Court's post-Roe decisional law. A review of post-Roe cases demonstrates both that they have expanded upon Roe in imposing increasingly greater restrictions on the States, see Thornburgh v. American College of Obstetricians and Gynecologists, 476 U.S. 747, 783 (Burger, C. J., dissenting), and that the Court has become increasingly more divided, none of the last three such decisions having commanded a majority opinion, see Ohio v. Akron Center for Reproductive Health, 497 U.S. 502; Hodgson v. Minnesota, 497 U.S. 417; Webster v. Reproductive Health Services, 492 U.S. 490. This confusion and uncertainty complicated the task of the Court of Appeals, which concluded that the "undue burden" standard adopted by Justice O'Connor in Webster and Hodgson governs the present cases. Pp. 1-8.

2. The Roe Court reached too far when it analogized the right to abort a fetus to the rights involved in Pierce v. Society of Sisters, 268 U.S. 510; Meyer v. Nebraska, 262 U.S. 390; Loving v. Virginia, 388 U.S. 1; and Griswold v. Connecticut, 381 U.S. 479, and thereby deemed the right to abortion to be "fundamental." None of these decisions endorsed an all encompassing "right of privacy," as Roe, supra, at 152-153, claimed. Because abortion involves the purposeful termination of potential life, the abortion decision must be recognized as sui generis, different in kind from the rights protected in the earlier cases under the rubric of personal or family privacy and autonomy. And the historical traditions of the American people--as evidenced by the English common law and by the American abortion statutes in existence both at the time of the Fourteenth Amendment's adoption and Roe's issuance--do not support the view that the right to terminate one's pregnancy is "fundamental." Thus, enactments abridging that right need not be subjected to strict scrutiny. Pp. 8-11.

3. The undue burden standard adopted by the joint opinion of Justices O'Connor, Kennedy, and Souter has no basis in constitutional law and will not result in the sort of simple limitation, easily applied, which the opinion anticipates. To evaluate abortion regulations under that standard, judges will have to make the subjective, unguided determination whether the regulations place "substantial obstacles" in the path of a woman seeking an abortion, undoubtedly engendering a variety of conflicting views. The standard presents nothing more workable than the trimester framework the joint opinion discards, and will allow the Court, under the guise of the Constitution, to continue to impart its own preferences on the States in the form of a complex abortion code. Pp. 22-23.

4. The correct analysis is that set forth by the plurality opinion in Webster, supra: A woman's interest in having an abortion is a form of liberty protected by the Due Process Clause, but States may regulate abortion procedures in ways rationally related to a legitimate state interest. P. 24.

5. Section 3205's requirements are rationally related to the State's legitimate interest in assuring that a woman's consent to an abortion be fully informed. The requirement that a physician disclose certain information about the abortion procedure and its risks and alternatives is not a large burden and is clearly related to maternal health and the State's interest in informed consent. In addition, a State may rationally decide that physicians are better qualified than counselors to impart this information and answer questions about the abortion alternatives' medical aspects. The requirement that information be provided about the availability of paternal child support and state-funded alternatives is also related to the State's informed consent interest and furthers the State's interest in preserving unborn life. That such information might create some uncertainty and persuade some women to forgo abortions only demonstrates that it might make a difference and is therefore relevant to a woman's informed choice. In light of this plurality's rejection of Roe's "fundamental right" approach to this subject, the Court's contrary holding in Thornburgh is not controlling here. For the same reason, this Court's previous holding invalidating a State's 24 hour mandatory waiting period should not be followed. The waiting period helps ensure that a woman's decision to abort is a well considered one, and rationally furthers the State's legitimate interest in maternal health and in unborn life. It may delay, but does not prohibit, abortions; and both it and the informed consent provisions do not apply in medical emergencies. Pp. 24-27.

6. The statute's parental consent provision is entirely consistent with this Court's previous decisions involving such requirements. See, e. g., Planned Parenthood Association of Kansas City, Missouri, Inc. v. Ashcroft, 462 U.S. 476. It is reasonably designed to further the State's important and legitimate interest "in the welfare of its young citizens, whose immaturity, inexperience, and lack of judgment may sometimes impair their ability to exercise their rights wisely," Hodgson, supra, at 444. Pp. 27-29.

7. Section 3214(a)'s requirement that abortion facilities file a report on each abortion is constitutional because it rationally furthers the State's legitimate interests in advancing the state of medical knowledge concerning maternal health and prenatal life, in gathering statistical information with respect to patients, and in ensuring compliance with other provisions of the Act, while keeping the reports completely confidential. Public disclosure of other reports made by facilities receiving public funds--those identifying the facilities and any parent, subsidiary, or affiliated organizations, § 3207(b), and those revealing the total number of abortions performed, broken down by trimester, §3214(f)--are rationally related to the State's legitimate interest in informing taxpayers as to who is benefiting from public funds and what services the funds are supporting; and records relating to the expenditure of public funds are generally available to the public under Pennsylvania law. Pp. 34-35.

Justice Scalia, joined by The Chief Justice, Justice White, and Justice Thomas, concluded that a woman's decision to abort her unborn child is not a constitutionally protected "liberty" because (1) the Constitution says absolutely nothing about it, and (2) the longstanding traditions of American society have permitted it to be legally proscribed. See, e. g., Ohio v. Akron Center for Reproductive Health, 497 U. S. ____, ____ (Scalia, J., concurring). The Pennsylvania statute should be upheld in its entirety under the rational basis test. Pp. 1-3.

O'Connor, Kennedy, and Souter, JJ., announced the judgment of the Court and delivered the opinion of the Court with respect to Parts I, II, III, V-A, V-C, and VI, in which Blackmun and Stevens, JJ., joined, an opinion with respect to Part V-E, in which Stevens, J., joined, and an opinion with respect to Parts IV, V-B, and V-D. Stevens, J., filed an opinion concurring in part and dissenting in part. Blackmun, J., filed an opinion concurring in part, concurring in the judgment in part, and dissenting in part. Rehnquist, C. J., filed an opinion concurring in the judgment in part and dissenting in part, in which White, Scalia, and Thomas, JJ., joined. Scalia, J., filed an opinion concurring in the judgment in part and dissenting in part, in which Rehnquist, C. J., and White and Thomas, JJ., joined.

(The complete document can be found in <http://www.law.cornell.edu/supct/html/91-744.ZS.html> [verified May 30, 2012].)