

# 30 YEAR ANNIVERSARY FOR ROE v. WADE

--How the U.S. Supreme Court reached the decision that sparked a quarter-century of controversy. --

## **BACKGROUND:**

America's concerns over abortion -- whether and under what circumstances it should be allowed -- was catapulted into controversy on January 22, 1973. On that day, the U.S. Supreme Court declared unconstitutional, by a vote of 7-2, a Texas law prohibiting an abortion except for the purpose of saving a woman's life.

The decision -- reached after two presentations before the court -- invalidated abortion laws in 46 states. Few rulings have generated as much sustained criticism or fervent support as Roe vs. Wade. The court declared:

- In the first three months of pregnancy, the abortion decision must be left to the woman and her physician.
- In the interest of protecting a woman's health, states may restrict but not prohibit abortions in the second three months, or trimester, of pregnancy.
- In the last three months of pregnancy, states may regulate -- or even prohibit -- abortions to protect the life of the fetus, except when medical judgment determines that an abortion is necessary to save the life of the mother.

"Jane Roe," later identified as Norma N. McCorvey, had sought an abortion in Texas, but since her life was not at risk, she was unable to obtain a legal one in that state. She eventually opted to have the child, and gave it up for adoption.

Newly minted lawyers Sarah Weddington and Linda Coffee decided to challenge the constitutionality of the Texas law, aiming to

establish a new constitutional right allowing women to control their own bodies. Roe became the lead plaintiff in their class-action lawsuit, and they represented her.

The U.S. District Court for the Northern District of Texas declared Texas's abortion law unconstitutional but declined to grant injunctive relief to the plaintiffs. Roe et al appealed the court's injunctive ruling, while Wade cross-appealed, challenging the lower court's ruling that the law was unconstitutional.

Weddington argued Roe's case before the Supreme Court. She faced seven, rather than nine, justices because two of them had recently retired. In fashioning her argument to justify striking down the Texas law, Weddington advanced many reasons, but none revealed the precise constitutional issues at stake. When Justice Potter Stewart asked her to formulate her constitutional argument, Weddington reached into a grab bag of provisions. Although poised in delivery, Weddington seemed at a loss as to where in the U.S. Constitution she could peg her argument.

Weddington's opponent, Jay Floyd, started off on the wrong foot, and appeared to go downhill from there. He began, "It's an old joke, but when a man argues against two beautiful ladies like this, they are going to have the last word." None of the justices seemed amused.

The justices initially voted to strike down the Texas law, and Justice Harry A. Blackmun was chosen as the spokesman for the majority. His opinion, however, failed to persuade his colleagues on the court. Moreover, some of the justices were miffed by the choice of Blackmun as spokesman.

Given the uncertainty among the justices, the testiness of their egos and the appointment of two new members -- William H. Rehnquist and

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Lewis F. Powell Jr. -- the court decided to hear a second argument on Roe vs. Wade, and scheduled it for October 11, 1972.

By then, Weddington had sharpened her argument. But so did her new opponent, Robert C. Flowers. Weddington faced tough questions from the justices on the constitutional status of the unborn fetus. Flowers came under strong questioning from justices Stewart and Thurgood Marshall as to when life begins. Once again, the majority-opinion assignment went to Blackmun.

His carefully crafted opinion failed to identify a specific U.S. constitutional guarantee to justify the court's ruling. Instead, he based the decision on the right to privacy protected by the due process clause of the Constitution's 14th Amendment. In effect, the court was enforcing a right that the Constitution did not specifically articulate.

Critics voiced their objections immediately. The dissenters -- justices Rehnquist and Byron R. White -- asserted what other people have frequently repeated since the decision: The court's judgment was directed by its own dislikes, not by any constitutional compass. In the absence of any guiding principles, the critics declared, the justices in the majority simply substituted their views for the views of the state legislatures, whose abortion regulations they invalidated. Academic critics also pounded the opinion, noting that the court had struck down legislation in the absence of any expressed constitutional provision or history.

Abortion-rights proponents had pegged their claims on a prominent Supreme Court decision, *Griswold v. Connecticut* (1965). In *Griswold*, a seven-member court majority fashioned a right to marital privacy from several constitutional provisions, then used this privacy right to strike down a seldom-enforced state law that made the use of birth control devices a crime.

The abortion issue surfaced in the oral argument in the *Griswold* case. Near the end of the second day of debate, Justice Hugo L. Black asked Professor Thomas Emerson, who sought to invalidate the Connecticut law, a question that

foreshadowed the abortion maelstrom eight years later. "With reference to all these things we've been talking about -- privacy and so forth -- would we invalidate all laws punishing people for bringing about abortions?" Emerson responded that one issue (contraception) had nothing to do with the other (abortion).

In the 25 years since the *Roe vs. Wade* decision, a bare majority of the court continues to reaffirm the initial decision. It did so most recently in 1992 in *Planned Parenthood vs. Casey*. At the same time, the justices have tolerated additional government restrictions on abortion procedures. It appears that divisions on the court still run deep.

Blackmun retired from the court in 1994. In a rare television interview with ABC News, Blackmun insisted that "*Roe versus Wade* was decided ... on constitutional grounds." It was as if Blackmun were trying, by sheer force of will, to turn back 25 years' worth of stinging objections to the opinion he crafted.

*Contributed by Jerry Goldman*

### **STORY:**

Thousands of opponents and supporters of abortion rights rallied at Washington monuments, energized on both sides by Republican hopes of curbing the procedure 30 years after the Supreme Court legalized it.

Dueling protests are a ritual in the nation's capital on the anniversary of the 1973 *Roe v. Wade* Supreme Court decision that made abortion legal. But both sides there was greater urgency this year with the Republican Party now controlling Congress and the White House.

Abortion opponents see their best chance in years to erode if not overturn *Roe*. "It just seems like it's more optimistic this year after the November elections," said Dennis Voglesong, 50, of Maryland, who has attended the anti-abortion March for Life for five years. He and others bundled against the bitter cold said they see a

surge against abortion rights among a new generation.

Abortion rights advocates, meanwhile, acknowledged that their opponents have reason to cheer this year. "President (George W.) Bush is just itching to put forward anti-choice legislation," said Polly Stamatopoulos, 32, of Washington, D.C., as she attended a dinnertime vigil at the Supreme Court.

### **SIGNIFICANCE:**

The flashpoint comes as abortions become less common in the U.S. — particularly among teenagers — in part because of better contraception. The overall abortion rate fell from 1994 to 2000, from 24 abortions for every 1,000 women of childbearing age to 21, according to the Alan Guttmacher Institute, which was begun by Planned Parenthood but now is an independent nonprofit corporation.

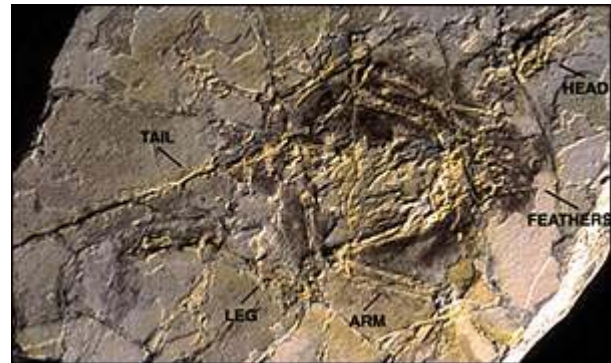
As is traditional, Bush broadcast a message to the anti-abortion rights rally, saying Americans "must protect the lives of innocent children waiting to be born." Bush and the new Republican-controlled Congress have fueled the debate with promises to curb access to some abortions. First on their agenda is a ban on late-term abortions. Congress passed such a ban in 1996 and 1997, but President Bill Clinton vetoed both. Bush has said he would sign it into law.

The prospect of a resignation on the Supreme Court also has raised the stakes because it would allow Bush to appoint a justice who opposes abortion rights. The court now favors abortion rights by a 5-4 majority.

The debate rages in legislatures across the nation, as states fight over measures that would protect or erode abortion rights. In Utah, for example, a state lawmaker marked the 30th anniversary of the Roe v. Wade decision by introducing a bill to define at what stage of a pregnancy an abortion becomes "infanticide" and to set criminal penalties for such cases.

## 4-Winged Dinosaur

--Fossil hunters in China have discovered what may be one of the weirdest prehistoric species ever seen winged dinosaur that apparently glided from tree to tree. —



### **BACKGROUND:**

Since flight evolved millions of years ago in all of the groups that are capable of flight today, we can't observe the changes in behavior and much of the morphology that the evolution of flight involves. We do have the fossil record, though, and it is fairly good for the three main groups that evolved true flight.

The most amazing fact about the evolution of flight is the extent of **convergent evolution** between the three main groups that evolved it (the pterosaurs, birds, and bats). In this convergence, we can see some semblance of general "rules" that may govern how animals evolve flight, and from these rules we can perhaps glean a hint of what it takes for an animal to have potential for flight.

A comparative study of the functional morphology of the wings of the earliest known flying members of the lineage with the "pre-wing" structures of likely ancestors and close relatives provides the best evidence for how wings evolved. Why wings (and hence flight) evolved from this point is a matter of contention among scientists; various hypotheses proposed include:

(1) Wings evolved from arms used to capture small prey. (This seems rational, so we

can ask whether the ancestral forms were actually doing this.)

(2) Wings evolved because bipedal animals were leaping into the air; large wings assisted leaping. (This is possible; any amount of wing could assist leaping. Remember that we first need phylogenetic evidence for a bipedal running or leaping origin.)

(3) Wings were used as sexual display structures; bigger wings were preferred by potential mates. (This is a non-falsifiable evolutionary hypothesis -- we cannot test it.)

(4) Wings evolved from gliding ancestors who began to flap their gliding structures in order to produce thrust. (This is reasonable and possible, but only with phylogenetic evidence for an arboreal gliding origin.)

It seems that #1, #2, and #4 are the best hypotheses to use for the origin of wings because they can be tested by bringing in other lines of evidence. Move on to consider these origins, but remember: the issues of the evolution of flight and the origins of flight are inextricably linked.

### **STORY**

Fossil hunters in China have discovered what may be one of the weirdest prehistoric species ever seen — a four-winged dinosaur that apparently glided from tree to tree.

The 128-million-year-old animal — called *Microraptor gui*, in honor of Chinese paleontologist Gu Zhiwei — was about 2 1/2 feet long and had two sets of feathered wings, with one set on its forelimbs and the other on its hind legs.

The feathered legs amount to rear wings, Xu said. He speculated they could have represented an intermediate stage of development before the emergence of true flight powered by flapping the wings. Or, the feathered legs could have been an evolutionary dead end, other researchers said.

Scientists believe *Microraptor gui* probably did not fly by flapping its wings, because of the way the rear legs are set in the hip sockets and because the rear legs probably would have encountered turbulence from flapping front wings.

That suggests instead that both sets of wings were used just for gliding, Chiappe said.

Exactly where the creature fits into the evolution of birds and dinosaurs is not clear. But researchers speculated that it developed around the same time as or even later than the first two-wing, birdlike dinosaur, *Archaeopteryx*, which is believed to have flown by actually flapping its wings. Paleontologists were intrigued by the discovery. They have seen gliding dinosaurs before, but never one with feathers. And they have never seen a four-winged dinosaur before.

"It would be a total oddity — the weirdest creature in the world of dinosaurs and birds," said Luis Chiappe, a paleontologist at the Natural History Museum of Los Angeles County who did not participate in the dig.

Scientists said the fossils — discovered in the Chinese province of Liaoning, northeast of Beijing, at a site that has yielded several important specimens in recent years — revive a debate between two theories of how dinosaurs might have evolved into birds.

One theory holds that some of these apparent bird ancestors learned to flap their wings to power flight while they were gliding from tree to tree. The other theory suggests they learned to fly by increasing their running speed with their wings and taking off from the ground. The latest find tends to support the gliding-in-trees theory.

Details of the fossils appear in Thursday's issue of the journal *Nature*.

### **SIGNIFICANCE:**

"This is a spectacular new specimen, and it has implications for rethinking current ideas about the origin of flight," says Mark Norell of the American Museum of Natural History in New York. But Norell says few scientists are ready to decide how the specimen affects a century-long debate on the evolution of flight. In 1915, famed naturalist William Beebe theorized that a similar gliding dinosaur preceded birds. The modern idea: Dinosaurs developed feathers on their limbs to run faster and jump higher, and arm feathers became flappable wings.

**THIS WEEK IN HISTORY:****BAIRD SHOWS TV**

On January 27, 1926, John Logie Baird, a Scottish inventor, gives the first public demonstration of a true television system in London, launching a revolution in communication and entertainment. Baird's invention, a pictorial-transmission machine he called a "televisor," used mechanical rotating disks to scan moving images into electronic impulses. This information was then transmitted by cable to a screen where it showed up as a low-resolution pattern of light and dark. Baird's first television program showed the heads of two ventriloquist dummies, which he operated in front of the camera apparatus out of view of the audience.

Baird based his television on the work of Paul Nipkow, a German scientist who patented his ideas for a complete television system in 1884. Nipkow likewise used a rotating disk with holes in it to scan images, but he never achieved more than the crudest of shadowy pictures. Various inventors worked to develop this idea, and Baird was the first to achieve easily discernible images. In 1928, Baird made the first overseas broadcast from London to New York over phone lines and in the same year demonstrated the first color television.

The first home television receiver was demonstrated in Schenectady, New York, in January 1928, and by May a station began occasional broadcasts to the handful of homes in the area that were given the General Electric-built machines. In 1932, the Radio Corporation of America demonstrated an all-electronic television using a cathode-ray tube in the receiver and the "iconoscope" camera tube developed by Russian-born physicist Vladimir Zworykin. These two inventions greatly improved picture quality.

The British Broadcasting Corporation (BBC) inaugurated regular high-definition public broadcasts in London in 1936. Regular television broadcasts began in the United States in 1939, and permanent color broadcasts began in 1954.

**WHO YOU NEED TO KNOW:**

*DR. HANS  
BLIX*

Executive Chairman,  
UN Monitoring, Verification and  
Inspection Commission (UNMOVIC)

Dr. Hans Blix was born in 1928 in Uppsala, Sweden. He studied at the University of Uppsala; at Columbia University, where he was also a research graduate; and at Cambridge University, where he received his Ph.D.

In 1959, he became Doctor of Laws at the Stockholm University, and in 1960, was appointed Associate Professor in International Law. He has an Honorary Doctorate from Moscow State University (1987) and is a recipient of the Henry de Wolf Smyth Award (Washington, DC, 1988).

From 1963 to 1976, Dr. Blix was Head of Department at the Ministry for Foreign Affairs and served as Legal Adviser on International Law. In 1976, he became Under-Secretary of State at the Ministry for Foreign Affairs, in charge of international development cooperation. He was appointed Minister for Foreign Affairs in 1978.

From 1961 until 1981, he was a member of Sweden's delegation to the United Nations General Assembly; and from 1962 to 1978, a member of the Swedish delegation to the Conference on Disarmament in Geneva. He served as Director General of the International Atomic Energy Agency from 1981 to 1997.

He has written several books on subjects associated with international and constitutional law and was a leader of the Liberal Campaign Committee in favor of retention of the Swedish nuclear energy program in the referendum in 1980.

Dr. Blix was appointed to his present position by the UN Secretary-General in January 2000 and took up his duties on March 1, 2000.

## SPORTS:

**Bucs 48, Raiders 21**

Coach Jon Gruden and his Bucs won the Super Bowl on Sunday, routing the Oakland Raiders 48-21 in the touted first match-up of the NFL's best offense against its best defense.

The Tampa Bay defense won by a mile, shutting down the Raiders for three quarters and holding on as they made a belated comeback attempt.

Super Bowl MVP Dexter Jackson had two interceptions, as did Dwight Smith, who returned both of his picks for touchdowns, including a 50-yarder to finish off the scoring with 2 seconds left in the game. Derrick Brooks also returned an interception for a touchdown. Simeon Rice had two of the Bucs' five sacks as Tampa romped to a 20-3 halftime lead then scored two quick third-quarter touchdowns. The Tampa Bay offense did its part, too, led by Michael Pittman, who ran for 124 yards on 29 carries.

That rendered futile a late comeback by the Raiders that included a touchdown on a blocked punt and 48-yard TD pass from league MVP Rich Gannon to Jerry Rice.

This was a victory for one of the NFL's longtime sad sacks. Between 1983 and 1996, the Bucs were the NFL's worst franchise, going without a winning season and losing 10 or more games in 13 of those 14 years. Even a year ago, they were a laughingstock after the Glazer family that owns the franchise fired coach Tony Dungy and went after big-name coaches like Bill Parcells and Steve Mariucci before landing Gruden.

But if this was a glorious day for the Bucs, it was the opposite for the Raiders, who have three Super Bowl victories but hadn't been back to pro football's showcase game in 19 years.

## ENTERTAINMENT:

**National Geographic Swimsuit Issue**

It's the middle of winter, so it must be time for a swimsuit issue to liven up magazine reading. No, it is not the one you are thinking of. National Geographic is doing a swimsuit issue.

It's a special newsstand-only issue that takes a detailed look at people wearing swimsuits but without quite the titillation some other magazines muster. Instead, National Geographic takes the reader on a historical tour of the swimsuit over the last 100 years.



The photos in the magazine brought out "a

sense of fun and wonder — as well as total astonishment at what some people will wear in public," said Bill Allen, National Geographic's editor-in-chief.

Swimming became popular early in the 20th century. Some of the early suits, with stockings and shoes, weighed over 20 pounds when wet; no wonder swimming classes were often held on land rather than in water. Things have lightened up since then, with women's suits shrinking to two pieces in the 1940s and almost vanishing in recent years.

A 1916 photo contrasts men in suits with tops — men wouldn't start going topless for another 20 years — with a 1917 view of Polynesian women, already topless in their warm climate. Nostalgic photos tour the one-piece suits worn by women in 1930 in New Orleans and by "Miss Sopot" in Sopot, Poland, in 1956. Other shots show the crowd at Coney Island on a summer day in the 1950s, Atlantic City in 1961 and in pool-studded backyards of Baltimore row houses in 1975. The issue goes on sale Feb. 1.

FEATURE: OP/ED

## See the World, Minus Killing

By Ted Rall

Here's another sign that the world is coming to an end: conservative Republicans are now fighting off liberal Democratic efforts to bring back the draft.

On New Year's Eve Congressman Charles Rangel (D-NY), a liberal African-American who represents Harlem, announced his contrarian war cry on the op-ed page of *The New York Times*. Noting the White House's desire to attack Iraq with or without an excuse, Rangel linked Bush's bellicosity to the fact that the soldiers in America's all-volunteer armed forces are disproportionately black and poor.

Fellow Congressman John Conyers Jr. (D-MI), echoed Rangel's remarks, arguing that lawmakers would be less likely to send young men into frivolous, politically-motivated oil wars "if their own family members and neighbors faced the prospects of serving in the military."

The current Selective Service system was created in 1980 by Jimmy Carter. If Rangel gets his way, 11.1 million registrees representing every class and race, starting with 20-year-olds up to age 25, would be called to serve in the armed forces. 18 and 19-year-olds would go last.

Rangel has a point. Only one of the Congressmen who voted in favor of war with Iraq has a child in uniform. No wonder legislators consider soldiers disposable--they're someone else's kids! But let's get serious. Neither the military nor the Bushies want to draft the children of white suburban swing voters. And Rangel's merely making a clever wee point about Iraq.

So why are we talking about the draft? Our present and possibly permanent war footing came out of the Sept. 11, 2001 attacks, which were carried out by men who hated Americans.

That's where my idea comes in. Mandatory public service is a good idea, but rather than send

young adults off to war or make them put in time planting trees or picking up trash--wasting the best years of their lives on killing and make-work--why not send them to study overseas for 2 years?

Sound crazy? Here's crazy: only seven percent of Americans own a passport--fewer than 20 million people--and only a fraction of those ever use one. Citizens of the US, whose military and culture exert more international influence than those of every other nation combined, are among the planet's least-traveled homebodies.

I propose an International Youth Service, which would require every able-bodied 18-year-old American to travel, at government expense, to a foreign city of the federal government's choosing. They would remain there for two years, acting as cultural ambassadors while learning about other societies firsthand. They would learn the local language, make friends, study, play sports, work, volunteer--whatever they would have done had they remained in the United States. Aside from providing them with marketable skills during an age of increasing globalization, International Youth Service would open the eyes of Americans to the simple fact that we are not alone. There are other ways of worshipping, of looking at the world, of existing, than the American way. Most kids will probably come home more convinced than ever that the U.S. is the best country on earth--but that belief would be based on something more substantive than jingoistic team spirit.

At the same time our youth are broadening their horizons, citizens of their host nations would be getting to know us. They would soon realize that, at the core, our similarities outweigh our differences. Although foreigners often dislike our government policies--as we often do--they tend to like us as individuals. The more Americans they meet, the better.

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*(Ted Rall is the author of "Gas War: The Truth Behind the American Occupation of Afghanistan," an analysis of the Trans-Afghanistan Pipeline and the motivations behind the war on terrorism.)*

*Quote of the Week:*

I believe that if those calling for war knew their children were more likely to be required to serve there would be more caution and a greater willingness to work with the international community in dealing with Iraq. *-Charles Rangel*

*Fact of the Week:*

38% of Americans say they enjoy football.

*Word of the Week:*

Jingo (jing'go) *n.* a person exaggeratedly patriotic and clamorous for war. *-jingoistic, a.*

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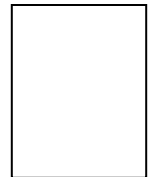
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