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U.S. Supreme Court Takes Abortion Case

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The U.S. Supreme Court's decision to accept the government's appeal on the partial-birth abortion law is good news, and observers of the court will be watching closely as the justices hear the case in the fall.

As *The Los Angeles Times* explained, "The high court will hear arguments on the case in October. A ruling is not likely to deal directly with *Roe vs. Wade* and the basic right of women to choose abortion. However, a victory for the administration would signal that the reconstituted court is more willing to regulate and restrict abortion."

Meanwhile, the paper was already editorializing against the ban, passed overwhelmingly by Congress:

Nobody likes partial-birth abortion, not even the people who fight for its availability. It is a gruesome procedure, just as anti-abortionists say, an ordeal for pregnant women as well as doctors. Indeed, it makes up a tiny number of the abortions performed in this country — a fraction of 1%. But in those rare cases, many doctors find that it is the safest method for late-term abortions, which are generally performed when the pregnant woman's health is threatened or the fetus will not survive after birth. Physicians say the procedure reduces risks for women with infections or other health problems.

Nevertheless, Congress received convincing testimony from physicians that indicated that the procedure should never be necessary in order to protect the life and physical health of the mother.

The New York Times also editorialized on the question, warning the court's newest justice, Samuel L. Alito, that he had better not tip the balance in favor of the ban:

The clear game plan of the measure's supporters was to keep the issue in play in the hope that a change of Supreme Court personnel would reverse the outcome the next time around. Now the new case reaches the court just as Justice Alito takes his seat, succeeding Justice Sandra Day O'Connor, who cast the deciding vote in the 2000 case. Justice Alito is likely to be more sympathetic to legislative efforts to restrict abortion. But for the Supreme Court to reverse so quickly a significant ruling in this contentious area in response to some obvious political machinations would undermine not just abortion rights, but the court's own authority. It's a dangerous game, and a wise court would not play it.

As it stands, the court's decision on the partial-birth abortion issue is almost certain to send an important signal concerning its future trajectory on the question of abortion.

Add to this the fact that the South Dakota legislature has now passed a ban on almost all elective abortions, setting the stage for a major challenge to the court's 1973 decision, *Roe v. Wade*.

As *The Washington Post* reports:

*South Dakota lawmakers yesterday approved the nation's most far-reaching ban on abortion, setting the stage for new legal challenges that its supporters say they hope lead to an overturning of *Roe v. Wade*. The measure, which passed the state Senate 23 to 12, makes it a felony for doctors to perform any abortion, except to save the life of a pregnant woman. The proposal still must be signed by Gov. Mike Rounds (R), who opposes abortion. The bill was designed to challenge the Supreme Court's ruling in *Roe*, which in 1973 recognized a right of women to terminate pregnancies. Its sponsors*

want to force a reexamination of the ruling by the court, which now includes two justices appointed by President Bush.

All this sets the stage for a most interesting upcoming year for the nation's highest court. We should be encouraged to see legislatures, both in Washington and in the states, confronting the Culture of Death with bold action.

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