

Casey decision shifts attention to states

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clared. But the railroad's Pennsylvania leg "could begin operating in five minutes," she added.

The Overground Railroad may be a dramatic response to recent abortion rulings, but the implications of the Casey decision are likely to have much greater impact in courts, state and federal legislative bodies, and in the polling booths, according to activists on both sides of the abortion debate.

Pro-choice advocates are attempting to stoke the decision into a political bonfire, claiming that the Bush administration wants to overturn *Roe vs. Wade*, the 1973 Supreme Court decision that legalized abortion in the United States.

"The court ruling is a thinly veiled attempt to overturn *Roe*," declared Gregory Soehner, executive director of Planned Parenthood of Rochester and the Genesee Valley, Inc., during a July 2 press conference. "The administration will not be satisfied until abortion is illegal."

Soehner noted that supporters of Planned Parenthood have formed an organization called Planned Parenthood Advocates of New York to help voters identify pro-choice candidates. Planned Parenthood itself is prohibited from such direct political activity because it is a tax-exempt organization.

In addition, Soehner espoused the Freedom of Choice Act currently under consideration in Congress.

"That act will guarantee that all American women will have the right to safe and legal abortions," Soehner claimed, adding that it will set the substance of *Roe* in legislative stone and limit the states' ability to restrict abortion.

"It's a matter of time before more and more states have restrictive abortion laws," Soehner said, declaring that the Casey decision effectively "gutted" *Roe*.

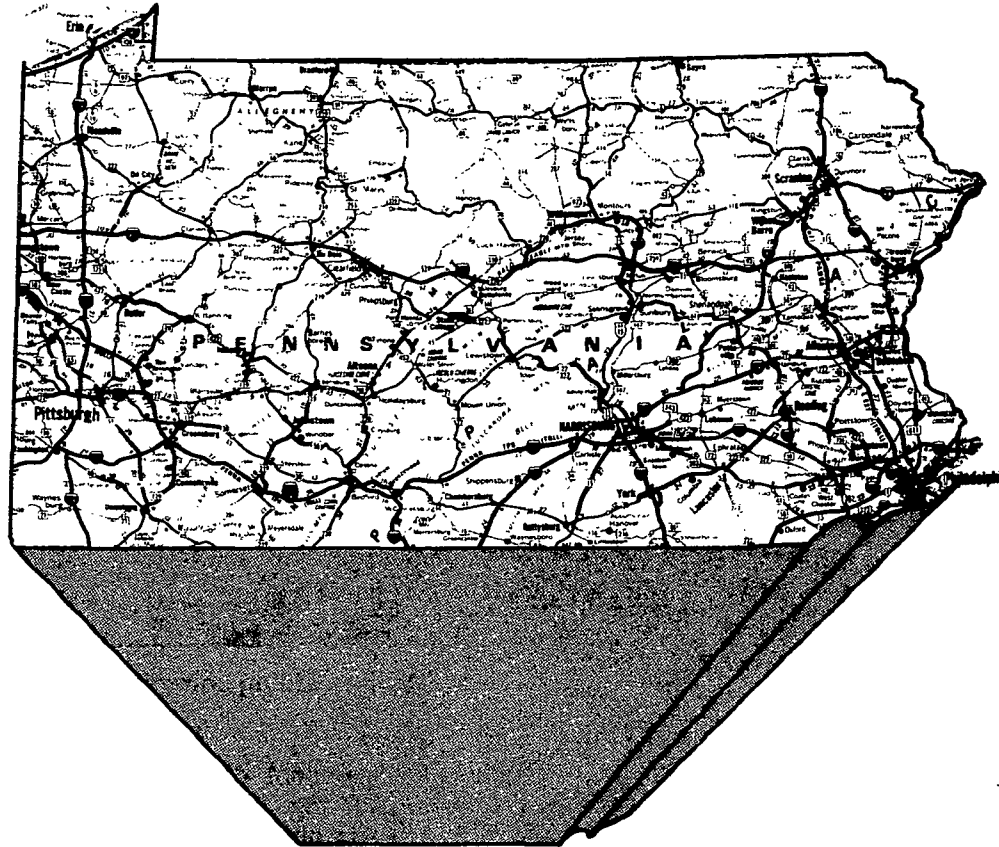
Labeling such statements as "overcharged rhetoric geared toward the election," however, Richard Doerflinger asserted that pro-choice groups had decided in advance that any decision by the court would "gut" *Roe*.

Rather than gutting *Roe*, the Casey decision "reaffirmed the core of *Roe* by saying women have a right to abortion," asserted Doerflinger, associate director for the Secretariat for Pro-Life Activities of the National Conference of Catholic Bishops.

"(The pro-choicers) know in their heart of hearts that they won" in Casey, he said. "Now they hope for an even greater victory."

That greater victory would be the passage of the Freedom of Choice Act, Doerflinger explained. The proposed law "is designed as a backlash to Casey," he said.

The proposed law declares that a state may not restrict the right of women to obtain abortions until the point of "fetal viability" (approx-



mately 24 weeks), or at any time during the pregnancy if the abortion is deemed necessary to protect the life or health of the woman, Doerflinger reported.

He added that the bill's sponsors have openly stated that "health" is defined broadly as the woman's social, physical, personal or emotion well-being.

In effect, Doerflinger said, the law would permit abortion on demand throughout the full nine months of pregnancy.

"Pro-life groups are calling (the Freedom of Choice Act) the 'Mandatory Abortion on Demand Act,'" observed Kathleen Gallagher, associate director of the New York State Catholic Conference. "We're trying to label how extreme this act really is."

Both the national and state Catholic conferences are planning information campaigns in the coming weeks and months to alert voters and elected officials about the law.

Pro-life advocate Rep. Christopher Smith (R-N.J.), wrote to his fellow congressmen June 26, 1992, declaring that the act "does not recognize any State interest in protecting unborn human life — at any time, for any reason."

Most observers say that the act will pass both houses of Congress, only to be vetoed by President George Bush.

But at this point, Doerflinger speculated, the House of Representatives is divided over the issue, and lobbying could lead to the act's rejection. Thus, part of the NCCB campaign will urge voters to write their representatives immediately to oppose the bill.

Meanwhile, both sides of the abortion debate are focusing on the fall election. Many pro-lifers support the reelection of President Bush to preserve his veto and to increase the chances that the next justice named to the Supreme Court would be pro-life. They

also hope that more pro-life members will be elected to the House and Senate.

Pro-choicers, conversely, want to eliminate the prospect of a presidential veto by electing a pro-choice president and to elect enough pro-choice congressmen to ensure — in the event of a Bush victory — that a veto would be overridden.

Doerflinger pointed out that the provisions the Supreme Court upheld in Casey are supported by the majority of Americans. "Every poll I've seen shows that 70 to 80 percent of the people support these provisions," he said.

Indeed, a nationwide Gallup poll conducted in January, 1992, showed that 86 percent of respondents supported the stipulation on informed consent; 75 percent supported a 24-hour waiting period before a woman could undergo an abortion; and 70 percent supported requiring parental consent for women under 18.

Thus, Doerflinger asserted, Americans support legislation comparable to that enacted by Pennsylvania. And he said the Casey decision may help gain passage of such legislation in other states.

In New York, for example, numerous attempts to bring parental-consent bills to the Assembly floor have failed because legislators believed such legislation would be ruled unconstitutional, noted John Kerry, executive director of the New York State Catholic Conference.

During legislative debate, lawmakers have expressed fear that the courts might overturn their efforts, Kerry noted in a telephone interview with the *Catholic Courier*. "(The Casey decision) might create a climate where now we no longer hear that such a law would be unconstitutional."

The state conference will continue to support parental-consent legislation,

Gallagher said. But the conference's new focus will be on informed consent — something the Supreme Court has never upheld prior to the Casey decision, she noted.

Informed consent, as defined in the Pennsylvania law, calls for the woman to be informed by the doctor about the risks involved in abortion, alternatives to abortion, and fetal development.

"Informed consent is very reasonable, very moderate," Gallagher asserted. "Our laws here in New York specifically require informed consent for a whole variety of procedures — such as hysterectomies and cancer treatment — but a woman getting an abortion (now) doesn't have to be told anything."

But Gallagher warned that efforts to enact such laws in New York may go for naught. She noted that — in conjunction with Planned Parenthood of New York City — the New York Civil Liberties Union filed the suit *Hope vs. Perales* in state district court in New York City in an effort to make abortion a right under New York state's constitution.

"If they succeed, then abortion would be enshrined as a right in the state constitution," Gallagher said. "Then it wouldn't matter if the Freedom of Information Act is passed."

Gallagher said similar rulings have already taken place in five states, and it is possible that New York's courts will follow suit. The state Catholic conference has filed a "friend of the court" brief in the case, but can do nothing more at this point other than wait for a decision, she said.

Beyond the Freedom of Choice Act and the elections, the Casey decision will have additional consequences, Doerflinger predicted.

"The long-term effect is to really make the Supreme Court and its interpretation of the constitution the focal part of the debate," Doerflinger said.

This would put greater importance on the presidential election because of the likelihood that a new Supreme Court justice — one who could tip the scales in either direction — will be selected within the next four years. And regardless of the election's outcome, Doerflinger added, the Supreme Court's pivotal role in the abortion debate will lead to heated debates over the process of nominating justices to the bench.

An even more serious consequence of the Casey decision is that it might lead pro-lifers to feel frustrated, Doerflinger said. The ruling dealt them a partial defeat by endorsing abortion as a "right," he said, noting that pro-lifers had not anticipated that development.

"It might lead more people to believe that working within the system will not get them anywhere, and will lead to more confrontational tactics," he warned.

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