

If you don't regularly receive my reports, request a free subscription at [steve\\_bakke@comcast.net](mailto:steve_bakke@comcast.net) !  
Follow me on Twitter at <http://twitter.com/@BakkeSteve> and receive links to my posts and more!  
Visit my website at <http://www.myslantonthings.com> !

## Roe and the mid-term elections

Steve Bakke  November 22, 2022



The mid-terms are over. Interpreting the motivation of voters and explaining the results of many races could fill a couple grad-school courses. Every possible variable is in the equation, ranging from efficient democrat gerrymandering, to measuring the “Trump effect.” I’ll limit comments to the Dobbs decision overturning Roe.

Abortion wasn’t addressed in the Constitution, nor was “the right to privacy.” The Dobbs decision delivered on that reality. I think the minds of voters were at least slightly influenced by several realities related to the demise of Roe. First, observations on the abortion debate itself, followed by my opinion about its impact on the mid-terms.

Under the Roe “regime,” several states passed laws allowing full-term abortions. Roe permitted states to deny late term abortions, but didn’t prevent states from permitting them. That omission led to a strong and effective opposition.

The personal papers of Roe’s author, Justice Harry Blackmun sheds light on the Courts intent: “I fear what the headlines may be,” he wrote in a memo. This draft denied that women were receiving “an absolute right to abortion,” nor “abortion on demand.”

The Court is accused of using Dobbs as a power grab. I disagree. The Court actually relinquished the power it had grabbed following Roe. In deciding Dobbs, the Court admitted and corrected a mistake. The states, and “we the people” are now in charge of seeking the right balance.

Pro-abortion activists argue the unfairness of a mere nine justices determining the demise of Roe, when its affect touches millions of people. They should remember that the Roe decision displayed that same characteristic. In fact, moving the decision to the states broadens the decision process.

It’s been argued, without merit, that fetal rights were never contemplated by the Founders. James Wilson, one of only six signers of both the Declaration of Independence and the Constitution, was also a member of the first Supreme Court. He wrote: “Of the Natural Rights of Individuals, in the

contemplation of law, life begins when the infant is first able to stir in the womb. By the law, life is protected not only from immediate destruction, but from.....every degree of danger.”

Interpretations vary significantly as to the effect of Dobbs on election results. I heard complaints that voters were willing to sacrifice anything, safety in the streets, stable prices, jobs, quality education – just about anything, “because we want to be able to kill babies.” Michelle Goldberg wrote in the NY Times, “...there seems little question that abortion was a big part of the story,” but offered no statistical evidence. That’s one extreme.

Offering contrast, Journalist David Harsanyi, pro-life leader Margorie Dannenfelser, and other pundits point out how pro-life republican candidates surpassed expectations in many jurisdictions, including candidates in New York, Florida, Iowa, Texas, Georgia, and South Dakota, and the Senate races in Ohio and South Carolina.

Names commonly mentioned include DeSantis, Abbott, Kemp, Vance, Lee, Noem, and Reynolds. Considering all U.S. House races, GOP candidates clearly won the (irrelevant) total popular vote. Although irrelevant, that also argues against Roe having had a disproportionate impact.

Obviously, some voters were influenced by the abortion issue. But it wasn’t a high-end issue. I agree with David Harsanyi’s conclusion that “there is little evidence that Dobbs.....changed very much at all.”

Pro-abortion states now gird for war. Abortion supporters in Washington, led by the President, seek to codify the essence of Roe into law. And a few hardline pro-lifers, who reject any exceptions for allowing abortions, are digging in. Compromise is impossible under these conditions.

The abortion battle will never end without compromise. Polls have shown that most pro-lifers would have supported a compromise amendment to the Roe legislation – i.e. permitting abortion with clear limitations. That represented potential common ground with most abortion advocates. But the extremes on both sides wouldn’t support that.

The current Supreme Court agreed with our Founders by preferring that the most contentious, hot-button issues are best left to the states, at least initially. Given a chance, and time, states can be effective “laboratories of democracy.” That’s the best place for developing novel solutions to complex problems. Let’s hope that over time these state “laboratories” will find a reasonable path to ultimately quieting the debate.